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ABSTRACT

This document includes all pertinent changes in New York Education Law enacted through the December 1984 legislative session, and changes of rules of the Board of Regents and regulations of the Commissioner through the Regents Meeting in December 1984, that pertain to public libraries, library systems, trustees, and librarians. Education Law excerpts reprinted here include: Article 5--University of the State of New York, Part I--General Organization and Part II--Libraries; Article 41--District Meetings, Part I--General Provisions; and Article 51--City School Districts of Cities with Less than One Hundred Twenty-Five Thousand Inhabitants. Session Law--Chapter 348, Laws of 1984 is excerpted. Rules of the Board of Regents excerpted include Part 10--State Library and State Museum and Part 11--Library Extension. Excerpts of Chapter II, Regulations of the Commissioner, Subchapter D--Libraries--Parts 90 and 92, and Subchapter N--Public Records and Department Publications, Parts 185 and 186 are provided. Excerpts from other laws, regulations, and opinions which affect libraries and library systems include: (1) Arts and Cultural Affairs Law; (2) Civil Practice Law and Rules; (3) Civil Service Law; (4) Executive Law; (5) General Municipal Law; (6) Judiciary Law; (7) Legislative Law; (8) New York Printing and Public Documents Law; (9) Not-For-Profit Corporation Law; (10) Public Officers Law; and (11) Senate Finance Law. Other laws relating to library incorporation, trustees, buildings, and employees and a select bibliography conclude the document. (THC)

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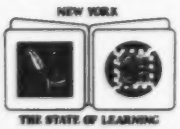
January 1985



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Pertaining to

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NOTE: Included in this edition of *Excerpts from New York State Education Law*... are all pertinent changes in Education Law enacted through the December 1984 legislative session, and changes of Rules of the Board of Regents and Regulations of the Commissioner through the Regents meeting in December 1984.

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§215. **VISITATION AND REPORTS.** The regents, or the commissioner of education, or their representatives, may visit, examine into and inspect, any institution in the university and any school or institution under the educational supervision of the state, and may require, as often as desired, duly verified reports therefrom giving such information and in such form as the regents or the commissioner of education shall prescribe. For refusal or continued neglect on the part of any institution in the university to make any report required, or for violation of any law or any rule of the university, the regents may suspend the charter or any of the rights and privileges of such institution.

§216. **CHARTERS.** Under such name, with such number of trustees or other managers, and with such powers, privileges and duties, and subject to such limitations and restrictions in all respects as the regents may prescribe in conformity to law, they may, by an instrument under their seal and recorded in their office, incorporate any university, college, academy, library, museum, or other institution or association for the promotion of science, literature, art, history or other department of knowledge, or of education in any way, associations of teachers, students, graduates of educational institutions, and other associations whose approved purposes are, in whole or in part, of educational or cultural value deemed worthy of recognition and encouragement by the university. No institution or association which might be incorporated by the regents under this chapter shall, without their consent, be incorporated under any other general law. An institution or association which might be incorporated by the regents under this chapter may, with the consent of the commissioner of education, be formed under the business corporation law or pursuant to the not-for-profit corporation law if such consent of the commissioner of education is attached to its certificate of incorporation.

§216-a. **APPLICABILITY OF NOT-FOR-PROFIT CORPORATION LAW.** 1. The term "education corporation" as used in this section means a corporation (a) chartered or incorporated by the regents or otherwise formed under this chapter, or (b) formed by a special act of this state with its principal purpose an education purpose and which is a member of the university of the state of New York, or (c) formed under laws other than the statutes of this state which, if it were to be formed currently under the laws of this state, might be chartered by the regents, and which has been authorized to conduct its activities in this state by the regents or as an authorized foreign education corporation with the consent of the commissioner. A corporation as defined in the business corporation law is not an education corporation under this section.

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§219 **CHANGE OF NAME OR CHARTER.** 1. The regents may, at any time, for sufficient cause, by an instrument under their seal and recorded in their office, change the name, or alter, suspend or revoke the charter or certificate of incorporation of any domestic corporation which they might incorporate under section two hundred sixteen, or any certificate of authority of a foreign corporation which they have issued or to which the commissioner has consented, (a) if subject to their visitation, or, (b) if authorized, chartered or incorporated by the regents or under a general law; provided that, unless on three-fourths request of the trustees of the corporation, no name shall be changed and no charter or certificate shall be altered, suspended or revoked, nor shall any rights or privileges thereunder be suspended or repealed by the regents, until they have mailed to the usual address of every director or trustee of the corporation concerned at least thirty days' notice of a hearing when any objections to the proposed change will be considered, and until ordered by a vote at a meeting of the regents at which the notices have specified that action is to be taken on the proposed change. A certified copy of such order of the regents, under their seal, to change the name, or alter, suspend or revoke a certificate of incorporation of any domestic corporation filed by the department of state under a general law, shall be delivered by the regents to such department. The order shall become effective upon the filing of such certified copy by the department of state.

2. Any notice to a trustee whose address is not readily ascertainable may be mailed to him in care of the institution. Where it appears that any institution incorporated by the regents has ceased to function, and the regents after diligent effort are unable to ascertain the names of the surviving trustees, if any, and their ad-

dresses or any address for the institution formerly maintained by the corporation, and are therefore unable to send the thirty-day notice to the trustees in the manner prescribed in this section, they may give such thirty days' notice by causing the same to be published once a week for three successive weeks prior to the date of such hearing in a daily or weekly newspaper published or printed in the place where the said corporation or its principal office is or was located; or if there be no such paper, then in a daily or weekly paper published or printed within the county, if there be one, or, if not in an adjoining county to that in which such corporation or its principal office is or was located.

3. Whenever the trustees of any such corporation shall determine, upon three-fourths vote to dissolve the corporation, they may petition the regents to issue an order of dissolution. If it appears to the satisfaction of the regents that there is no sufficient reason for the continuance of the corporation, that all taxes chargeable to the corporation have been paid, and, if the corporation has stock provisions, that the outstanding stock has been surrendered for cancellation, the regents shall thereupon have power to dissolve the corporation.

4. Whenever the charter or incorporation of an institution is revoked or an order of dissolution made pursuant to the provisions of this section, it shall be the duty of the trustees and/or the custodians of the permanent academic records of such institution to file the same with the state education department, or with such other agency as may be approved by said department where they shall be kept available for future reference. In the event, however, that an application is made to the supreme court for an order directing the disposition of assets of such educational corporation pursuant to the provisions of section two hundred twenty of this chapter and such order is thereupon made, the disposition of such permanent academic records may be directed therein. A copy of the order shall be filed with the education department by the applicant and such order shall so provide.

§220. DISTRIBUTION OF ASSETS. 1. Whenever the regents have revoked the charter of any educational corporation or dissolved such corporation pursuant to section two hundred nineteen of this chapter or whenever a provisional charter has expired, if the corporation has assets the board of trustees shall, within three months after such revocation, dissolution or expiration, petition the supreme court in the judicial district where the principal office of the corporation is or was located for an order directing the disposition of any and all property belonging to the corporation. Such petition shall be duly verified and shall set forth a complete statement of all the assets, together with their location and an estimate of their value, and also a statement of the ascertainable debts of the corporation.

2. Such petition shall be accompanied by proof that notice of the time and place of such intended application to said court has been duly published once in each week for at least four weeks successively, next preceding such application, in a newspaper circulated in the county where such corporation is located.

3. A copy of such petition shall be served upon the regents and the attorney general not less than ten days prior to such application.

4. The court shall direct the sale of sufficient designated assets to pay any outstanding debts and the cost of dissolution. The regents and the board of trustees may present to the court their recommendation as to the disposition of the remaining property of the corporation if there be library books, objects of art or of historical significance, as far as possible they shall not be sold but shall be transferred to libraries, museums or educational institutions willing to accept them. If a charter contains a provision indicating a proposed disposition of the assets in case of dissolution, such provision shall be followed by the court in its order as far as practicable. If there be any surplus moneys after payment of debts and the expenses of liquidation, the court may direct that the same be devoted and applied to any such educational, religious, benevolent, charitable or other objects or purposes as the said trustees may indicate by their petition and the said court may approve.

5. Upon the revocation of the charter of an educational corporation or its dissolution, the trustees of such corporation shall be empowered to continue in office for the purpose of settlement of the affairs of the corporation.

§222. SUSPENSION OF OPERATIONS. If any institution in the university shall discontinue its educational operations without cause satisfactory to the regents, it shall surrender its charter to them, subject, however, to restoration whenever arrangements satisfactory to the regents are made for resuming its work.

§226. POWERS OF TRUSTEES OF INSTITUTIONS. The trustees of every corporation created by the regents, unless otherwise provided by law or by its charter, may:

1. Number and quorum. Fix the term of office and number of trustees, which shall not exceed twenty-five, nor be less than five. If any institution has more than five trustees, the body that elects, by a two-thirds vote after notice of the proposed action in the call for a meeting, may reduce the number to not less than five by abolishing the office of any trustee which is vacant and filing in the regents' office a certified copy of the action. A majority of the whole number shall be a quorum.

2. Executive committee. Elect an executive committee of not less than five, who, in intervals between meetings of the trustees, may transact such business of the corporation as the trustees may authorize, except to grant degrees or to make removals from office.

3. Meetings and seniority. Meet on their own adjournment or when required by their by-laws, and as often as they shall be summoned by their chairman, or in his absence by the senior trustee, on written request of three trustees. Seniority shall be according to the order in which the trustees are named in the charter or subsequently elected. Notice of the time and place of every meeting shall be mailed not less than five nor more than ten days before the meeting to the usual address of every trustee.

4. Vacancies and elections; removals by board of regents. Fill any vacancy occurring in the office of any trustee by electing another for the unexpired term; provided, however, that where trustees are elected by the legal voters the person so appointed to fill any such vacancy shall hold office until the next annual election of trustees. The office of any trustee shall become vacant on his death, resignation, refusal to act, removal from office, expiration of his term, or any other cause specified in the charter. If any trustee shall fail to attend three consecutive meetings without excuse accepted as satisfactory by the trustees, he shall be deemed to have resigned, and the vacancy shall be filled. Any vacancy in the office of trustee continuing for more than one year, or any vacancy reducing the number of trustees to less than two-thirds of the full number may be filled by the regents. The regents may remove any trustee of a corporation created by them for misconduct, incapacity, neglect of duty, or where it appears to the satisfaction of the regents that the corporation has failed or refuses to carry into effect its educational purposes. A hearing in the proceeding for the removal of such trustees shall be had before the board of regents or a committee thereof and the trustees shall be given at least ten days' notice of the time and place of such hearing. In case of removal the regents may appoint successors to the trustees so removed. The provisions of this section as to removal and filling of vacancies in trustees shall not apply to corporations now or hereafter established and maintained by a religious denomination, order or sect. No person shall be ineligible as a trustee by reason of sex.

5. Property holding. Take and hold by gift, grant, devise or bequest in their own right or in trust for any purpose comprised in the objects of the corporation, such additional real and personal property, beyond such as shall be authorized by their charter or by special or general statute, as the regents shall authorize within one year after the delivery of the instrument or probate of the will, giving, granting, devising or bequeathing such property, and such authority given by the regents shall make any such gift, grant, devise or bequest operative and valid in law. Any grant, devise or bequest shall be equally valid whether made in the corporate name or to the trustees of a corporation, and powers given to the trustees shall be powers of the corporation.

6. Control of property. a. Buy, sell, mortgage, let and otherwise use and dispose of its property as they shall deem for the best interests of the institution; and also to lend or deposit, or to receive as a gift, or on loan or deposit, literary, scientific or other articles, collections, or property pertaining to their work; and such gifts, loans or deposits may be made to or with the university or any of its institutions by any person, or by legal vote of any board of trustees, corporation, association or school district, and any such transfer of property, if approved by the regents, shall during its continuance, transfer responsibility therefor to the institution receiving it, which shall also be entitled to receive any money, books or other property from the state or other sources to which said corporation, association or district would have been entitled but for such transfer.

b. Notwithstanding any other provision of law, prior to the discarding of used or surplus books or other such reading materials by trustees of a chartered public or free association library which receives over ten thousand dollars in state aid, such trustees shall (i) offer to donate such books or materials which have no market value to a not-for-profit corporation or political subdivision located within the area of the library system or (ii) offer to sell such books or materials which do have a market value to the general public. The trustees shall retain any proceeds received from the sale of such books and materials for the purpose of maintaining and improving library service within the system.

7. Officers and employees. Appoint and fix the salaries of such officers and employees as they shall deem necessary who, unless employed under special contract, shall hold their offices during the pleasure of the trustees; but no trustee shall receive compensation as such. The president or chief executive officer of an association library corporation shall be elected by the trustees from their own number and shall be the chairman of the board.

8. Removals and suspensions. Remove or suspend from office by vote of a majority of the entire board any trustee, officer or employee engaged under special contract, on examination and due proof of the truth of a written complaint by any trustee, of misconduct, incapacity or neglect of duty; provided, that at least one week's previous notice of the proposed action shall have been given to the accused and to each trustee.

9. Degrees and credentials. Grant such degrees and honors as are specifically authorized by their charter, and in testimony thereof give suitable certificates and diplomas under their seal; and every certificate and diploma so granted shall entitle the conferee to all privileges and immunities which by usage or statute are allowed for similar diplomas of corresponding grade granted by any institution of learning.

10. Rules. Make all by-laws and rules necessary and proper for the purposes of the institution and not inconsistent with law or any rule of the university; but no rule by which more than a majority vote shall be required for any specified action by the trustees shall be amended, suspended or repealed by a smaller vote than that required for action thereunder.

§245. STATE LIBRARY, HOW CONSTITUTED. All books, pamphlets, manuscripts, records, archives and maps, and all other property appropriate to a general library, if owned by the state and not placed in other custody by law, shall be in charge of the regents and constitute the state library.

§246. STATE MEDICAL LIBRARY. The state medical library shall be a part of the New York state library under the same government and regulations and shall be open for consultation to every citizen of the state at all hours when the state library is open and shall be available for borrowing books to every accredited physician residing in the state of New York, who shall conform to the rules made by the regents for insuring proper protection and the largest usefulness to the people of the said medical library.

§247. STATE LAW LIBRARY; LEGISLATIVE REFERENCE LIBRARY. The state law library and the legislative reference library shall be parts of the New York state library under the same government and regulations and shall be open for consultation to every citizen of the state at all hours when the state library is open and the law library shall be available for borrowing books to every duly admitted attorney residing in the state of New York, who shall conform to the rules made by the regents for insuring proper protection and the largest usefulness to the people of the said law library.

§248. MANUSCRIPT AND RECORDS "ON FILE." Manuscript or printed papers of the legislature, usually termed "on file," and which shall have been on file more than five years in custody of the senate and assembly clerks, and all public records of the state not placed in other custody by a specific law shall be part of the state library and shall be kept in rooms assigned and suitably arranged for that purpose by the trustees of public buildings. The regents shall cause such papers and records to be so classified and arranged that they can be easily found. No paper or record shall be removed from such files except on a resolution of the senate and assembly withdrawing them for a temporary purpose, and in case of such removal a description of the paper or record and the name of the person removing the same shall be entered in a book provided for that purpose, with the date of its delivery and return.

§249. STATE LIBRARY, WHEN OPEN; USE OF BOOKS. The state library shall be kept open not less than eight hours every weekday in the year except the legal holidays and such other days or occasions as determined by the commissioner of education, and members of the legislature, judges of the court of appeals, justices of the supreme court and heads of state departments may borrow from the library books for use in Albany, but shall be subject to such restrictions and penalties as may be prescribed by the regents for the safety or greater usefulness of the library. Under such rules and conditions as the regents may prescribe the state library may lend its books and printed material for a limited time to other individuals and institutions conforming to said rules and conditions. Such service shall be free to residents of this state as far as practicable but the regents may, in their discretion, charge a proper fee to nonresidents or for assistance of a personal nature or for other reason not properly an expense to the state, but which may be authorized for the accommodation of users of the library.

§249-a. LIBRARIES OF PUBLIC INSTITUTIONS OF HIGHER EDUCATION; ACCESS AND USE. The state university trustees and the board of higher education of the city of New York are hereby authorized to establish such rules and regulations as may be necessary and appropriate to make provision for access and use by the residents of the state of the libraries and library facilities of the public institutions of higher education under their respective jurisdictions.

§250. DUPLICATE DEPARTMENT. The regents shall have charge of the preparation, publication and distribution, whether by sale, exchange or gift, of the colonial history, natural history and all other state publications not otherwise assigned by law. To guard against waste or destruction of state publications, and to provide for the completion of sets to be permanently preserved in American and foreign libraries, the regents shall maintain a duplicate department to which each state department, bureau, board or commission shall send not less than five copies of each of its distribution, any remaining copies which it no longer requires. The above, with any other publications not needed in the state library, shall be the duplicate department, and rules for sale, exchange or distribution from it shall be fixed by the regents, who shall use all receipts from such exchanges or sales for expenses and for increasing the state library.

§251. TRANSFERS FROM STATE OFFICERS. The librarian of any library owned by the state, or the officer in charge of any state department, bureau, board, commission or other office may, with the approval of the regents, transfer to the permanent custody of the state library or museum any books, papers, maps, manuscripts, specimens or other articles which, because of being duplicates or for other reasons, will in his judgment be more useful to the state in the state library or museum than if retained in his keeping.

§252. OTHER LIBRARIES OWNED BY THE STATE. The report of the state library to the legislature shall include a statement of the total number of volumes or pamphlets, the number added during the year, with a summary of operations and conditions, and any needed recommendation for safety or usefulness for each of the other libraries owned by the state, the custodian of which shall furnish such information or facilities for inspection as the regents may require for making this report. Each of these libraries shall be under the sole control now provided by law, but for the annual report of the total number of books owned by or bought each year by the state, it shall be considered as a branch of the state library and shall be entitled to any facilities for exchange of duplicates, inter-library loans or other privileges properly accorded to a branch.

§253. PUBLIC AND ASSOCIATION LIBRARIES AND MUSEUMS. 1. All provisions of this section and of sections two hundred fifty-four to two hundred seventy-one inclusive shall apply equally to libraries, museums, and to combined libraries and museums, and the word "library" shall be construed to mean reference and circulating libraries and reading rooms.

2. The term "public" library as used in this chapter shall be construed to mean a library, other than professional, technical or public school library, established for free public purposes by official action of a municipality or district or the legislature, where the whole interests belong to the public; the term "association" library shall be construed to mean a library established and controlled, in whole or in part, by a group of private individuals operating as an association, close corporation or as trustees under the provisions of a will or deed of trust; and the term "free" as applied to a library shall be construed to mean a library maintained for the benefit and free use on equal terms of all the people of the community in which the library is located.

3. The term "Indian library" shall be construed to mean a public library established by the tribal government of the Saint Regis Mohawk tribe, the Seneca Nations of Indians or the Tonawanda Seneca tribe and located on their respective reservations, to serve Indians residing on such reservations and any other persons designated by its board of trustees.

§254. STANDARDS OF LIBRARY SERVICE. The regents shall have power to fix standards of library service for every free association, public and hospital library or, with the advice of the appropriate tribal government and library board of trustees, Indian library which receives any portion of the moneys appropriated by the state to aid such libraries, or which is supported in whole or in part by tax levied by any municipality or district. In the case of a hospital library or a library serving a hospital, such standards shall be established in consultation with the commissioner of health. If any such library shall fail to comply with the regents requirements, such library shall not receive any portion of the moneys appropriated by the state for free, hospital or Indian libraries nor shall any tax be levied by any municipality or district for the support in whole or in part of such library.

§255. ESTABLISHMENT OF A PUBLIC LIBRARY. 1. By a majority vote at any election, or at a meeting of the electors duly held, any county, city, village, town, school district or other body authorized to levy and collect taxes; or by vote of its board of supervisors or other governing elective body any county, or by vote of its common council or by action of a board of estimate and apportionment or other proper authority any city, or by vote of its board of trustees any village, or by vote of its town board any town, or any combination of such voting bodies, may individually or jointly authorize the establishment of a public library with or without branches, and may appropriate money raised by tax or otherwise to equip and maintain such library or libraries or to provide a building or rooms for its or their use. Any such municipality or district may acquire real or personal property for library purposes by gift, grant, devise, bequest or condemnation and may take, buy, sell, hold and transfer either real or personal property for public library purposes. Whenever twenty-five taxpayers shall so petition, the question of providing library facilities shall be voted on at the next election or meeting at which taxes may be voted, provided that due public notice of the proposed action shall have been given. Whenever the electors of a school district at a district meeting duly held shall have authorized the establishment of a public library under the provisions of this section, at such meeting or at any subsequent meeting duly held, they may determine by a majority of the voters present and voting on the proposition to levy a tax to be collected in installments for the purchase or condemnation of a site and the erection thereon of a library building or the erection of a library building on land acquired otherwise than by purchase or condemnation, or for the purchase of land and a suitable building thereon and make necessary alterations and additions and equip such building for use as a library.

2. Upon the request of a majority of the members of the boards of trustees of two or more libraries chartered by the regents, if it shall appear to the satisfaction of the commissioner that the establishment of a cooperative library system will result in improved and expanded library service to the area and that the area is suitable for the establishment of such a cooperative library system, the commissioner may call a joint meeting of the trustees of such libraries for the purpose of determining whether a cooperative library system shall be established and electing a board of trustees of such cooperative library system. If it shall appear to the commissioner that the area proposed for the cooperative library system is not sufficient to warrant the establishment of such system; that such area is not otherwise suitable or that for sufficient other reason such cooperative library system as proposed should not be established he shall disapprove such request.

a. Notice of such meeting shall be given by the commissioner to each trustee by mail to his last known address at least five days prior to such meeting. At such meeting the board of trustees of each library participating shall have five votes.

b. Such meeting shall be called to order by the person designated by the commissioner and shall thereupon organize by the election of a chairman. At such meeting a resolution in substantially the following form shall be presented for the action of the meeting: "Resolved that a cooperative library system be established consisting of the following libraries chartered by the regents..... (name libraries) for the purpose of expanding and improving library service in the area served by the above named libraries."

c. If the resolution described above is adopted, then the meeting shall proceed to elect a board of trustees of such library system to consist of not less than five nor more than twenty-five members as determined by the meeting.

d. Within one month after taking office, the trustees-elect shall apply to the regents for a charter as a cooperative library system.

e. The board of trustees shall manage and control such cooperative library system and shall have all the powers of trustees of other educational institutions in the university as defined in this chapter. Such board shall elect a president, secretary and treasurer. Before entering upon his duties, such treasurer shall execute and file with the trustees an official undertaking in such sum and with such sureties as the board shall direct and approve. The treasurer need not be a member of such board. The funds of the cooperative library system shall be deposited in a bank or banks designated by the board of trustees and shall be expended only under the direction of such trustees upon properly authenticated vouchers.

f. The term of office of trustees shall be five years except that the members of the first board of trustees shall determine by lot the year in which the term of office of each trustee shall expire so that as nearly as possible the terms of one-fifth of the members of such board will expire annually. Thereafter, the successors of such trustees shall be elected annually by a meeting of the trustees of the participating libraries in the cooperative library system. No trustees shall hold office consecutively for more than two full terms. Such meeting shall be called by the secretary of the cooperative library system who shall give notice to all the trustees of participating libraries in the manner provided in subparagraph a of this subdivision for giving notice of the meeting to authorize the establishment of such cooperative library system.

g. A contract may be entered into between the board of trustees of a cooperative library system and the department under which the state library will provide services, facilities and staff to the cooperative library system upon terms agreed upon by and between the parties to such contract.

h. Nothing herein contained shall be deemed to deprive any participating library of its property.

i. The board of trustees of any library chartered by the regents which is not participating in a cooperative library system may adopt a resolution requesting that such library become a participating library in a cooperative library system. Duplicate copies of such resolution certified by the clerk of such board of trustees shall be filed with the board of trustees of the cooperative library system. If such board approve such resolution such approval shall be endorsed thereon and a copy thereof shall be filed with the commissioner. Upon such resolution being approved by the commissioner such additional library shall become a participating library in such system and shall have the same rights, duties and privileges as other libraries participating therein.

j. The participating libraries in such library system shall be those libraries, members of the boards of trustees of which join in petitioning the commissioner to call the meeting for the establishment of the cooperative library system pursuant to this section, and who are named in the resolution voted upon by such meeting and in the charter of the library system.

k. The board of trustees of each public library system shall meet no fewer than six times a year.

3. Trustees of a reference and research library resources system shall have those powers set forth in section two hundred twenty-six of this article with respect

to trustees of corporations chartered by the regents, and in addition shall have the following powers and duties:

a. The board of trustees of a reference and research library resources system shall include at least one representative of each constituent public library system, at least one representative of the member academic library with the largest collection, and at least two nonlibrarians from the research community served by the system.

b. The term of office of trustees shall be five years except that the members of the first board of trustees shall determine by lot the year in which the term of office of each trustee shall expire so that as nearly as possible the terms of one-fifth of the members of such board will expire annually. Thereafter, the successors of such trustees shall be elected annually by a meeting of the designated representatives of the member institutions participating in the reference and research library resources system. No trustee shall hold office consecutively for more than two full terms. Such annual meeting shall be called by the secretary of the reference and research library resources system who shall give notice to all the participating libraries by mail at least five days prior to such meeting.

c. The board of trustees shall meet no fewer than six times a year.

4. By a majority vote of the tribal government of an Indian reservation, or upon the request of the tribal government of an Indian reservation, an Indian library may be established, with or without branches, and may make application to the state or other source for money to equip and maintain such library or libraries or to provide a building or rooms for its uses. Notwithstanding the provisions of section seven of the Indian law, the board of trustees of such library, on behalf of the tribal government, may acquire real or personal property for use by an Indian library by gift, grant, devise, bequest and may take, buy, sell, hold and transfer either real or personal property for the purposes of such library. No more than one Indian library may be established on a reservation and such library shall serve all inhabitants of that reservation. No such library shall be established on any reservation that has fewer than three hundred permanent residents and one thousand acres of land.

5. The boards of trustees of any two, or more, public libraries, Indian libraries, reference and research library resources systems, cooperative library systems, or association libraries, as defined in this article, may pool surplus funds to be used for the purchase of certificates of deposit in any bank or trust company, provided that such certificate of deposit be secured by a pledge of obligations of the United States of America, or any obligation fully guaranteed or insured as to interest and principal by the United States of America acting through an agency, subdivision, department or division thereof, or obligations of the state of New York. Each participating public library, Indian library, reference and research library resources system, cooperative library system or association library shall be entitled to its pro-rata share of interest earned on such certificates in proportion to its contribution to the purchase price of such certificates.

§256. CONTRACTS. 1. Any authority named in section two hundred fifty-five may, individually or jointly with another municipal or district body or tribal government, grant money for the support of the cost of maintaining or the cost of any capital improvements to or expenditure for one or more: free association libraries, provided such libraries are registered by the regents; public libraries, provided such libraries are registered by the regents; and cooperative library systems approved by the commissioner; or may, individually or jointly with another municipal or district body or tribal government, contract with the trustees of a free association library registered by the regents, or with any municipal or district body having control of such a library, or with the trustees of the cooperative library system, or with the trustees of a public library registered by the regents to furnish library services to the people of the municipality, district or reservation for whose benefit the contract is made, under such terms and conditions as may be stated in such contract. The amount agreed to be paid for such services under such contract shall be a charge upon the municipal or district bodies or tribal government which agree to make the payment and shall be paid directly to the treasurer of the free association library, public library or of the cooperative library system.

2. When the municipality agreeing to make the payment or grant is a town in which there are one or more incorporated villages, which village or villages jointly with such town contract with the trustees of a cooperative library system, a free association library or with another municipal district or body having control of a public library whether or not such district or body is an incorporated village in such town, the amount appropriated by the town board in such town shall be a charge upon the taxable property of that part of the town outside of any such incorporated village.

§257. ACCEPTANCE OF CONDITIONAL GIFT. By majority vote at any election or at a meeting of the electors, duly held, any municipality or district or by three-fourths vote of its council any city, or any library or any designated branch thereof if so authorized by such vote of a municipality, district or council, or any combination of such voting bodies, may accept gifts,

grants, devises or bequests for library purposes or for kindred affiliated educational, social and civic agencies on condition that a specified annual appropriation shall thereafter be made for the maintenance of a library or branches thereof, or of such kindred affiliated agencies, by the municipality or district or combination so authorizing such acceptance, or upon such other conditions as may be stipulated in the terms of the gift. Such acceptance when approved by the regents of the university under seal and recorded in its book of charters shall be a binding contract, and such municipality or district shall levy and collect yearly in the manner prescribed for other taxes the amount stipulated and shall maintain any so accepted gift, grant, devise or bequest intact and make good any impairment thereof, and shall comply with all other conditions set forth in the stated terms of the gift.

§259. **LIBRARY TAXES.** 1. Taxes, in addition to those otherwise authorized, may be voted for library purposes by any authority named in section two hundred fifty-five of this chapter and shall, unless otherwise directed by such vote, be considered as annual appropriations therefor until changed by further vote and shall be levied and collected yearly, or as directed, as are other general taxes. In the case of a school district the appropriation for library purposes shall be submitted to the voters of the district in a separate resolution and shall not be submitted as a part of the appropriation of the necessary funds to meet the estimated expenditures of the school district. All moneys received from taxes or other public sources for library purposes shall be kept as a separate library fund by the treasurer of the municipality or district making the appropriation and shall be expended only under direction of the library trustees on properly authenticated vouchers, except that money received from taxes and other public sources for the support of a public library or a free association library or a cooperative library system shall be paid over to the treasurer of such library or cooperative library system upon the written demand of its trustees.

2. In the case of a joint public library authorized to be established by two or more municipalities or districts pursuant to section two hundred fifty-five of this chapter, the governing bodies of the participating municipalities and districts shall enter into an agreement designating the treasurer of one of the participating municipalities or districts to be the treasurer of the joint public library. The agreement shall be for a period of not less than one year nor more than five years and the state comptroller and the commissioner of education shall be notified in writing by the board of library trustees of such agreement and designation.

The municipality or district whose treasurer is designated to serve as treasurer of a joint public library may be compensated for the services rendered by such official to the library. The amount to be paid for such services shall be determined by agreement between the governing body of the municipality or district and the board of library trustees, and shall be paid at least annually from the public library fund.

3. The treasurer of a joint public library shall maintain the separate library fund required by subdivision one of this section and shall credit to such fund all moneys received. The state aid apportioned to a joint public library, amounts appropriated by participants toward its support and all amounts received from other sources shall be paid to the library treasurer. Appropriations for the library made by the participating municipalities or districts shall be paid in full to the library treasurer within sixty days after the beginning of the library fiscal year.

Disbursements for purposes of a joint public library shall be made by the treasurer in the manner prescribed in subdivision one of this section.

Within thirty days after the close of the fiscal year the treasurer shall make an annual report of the receipt and disbursement of library moneys to the board of library trustees and to the governing body of each of the participating municipalities or districts.

4. Notwithstanding the provisions of subdivisions one and three of this section, the library trustees may by resolution establish a petty cash fund, in such amount as they shall determine, for any employee who has supervision of any library or branch thereof. Expenditures from such fund may be made by such employee in advance of audit by the library trustees, but only after the submission of properly itemized and authenticated vouchers for materials, supplies or services furnished to the library or branch thereof and upon terms calling for payment to the vendor upon the delivery of any such materials or supplies or the rendering of any such services. At each meeting of the library trustees a list of all expenditures made from such fund since the last meeting of the trustees, together with the vouchers supporting such expenditures, shall be presented by such employee to the library trustees. The trustees shall direct the treasurer to reimburse such petty cash fund in an amount equal to the total of such bills which the trustees shall so allow. Any of such bills or any portion of such bills which the library trustees shall refuse to allow shall be the personal liability of such employee and he shall promptly reimburse such petty cash fund in the amount of such disallowances. If such reimbursement has not been made by the time of the first payment of salary to such employee after the action of the library trustees in disal-

lowing an amount so expended, such amount shall be withheld from such salary payment to such employee and, if necessary, subsequent salary payments and paid into such petty cash fund until an amount so disallowed by the library trustees has been repaid in full to the petty cash fund.

§260. TRUSTEES. 1. Public libraries authorized to be established by action of the voters or their representatives shall be managed by trustees who shall have all the powers of trustees of other educational institutions of the university as defined in this chapter; provided that the number of trustees of county public libraries and Indian libraries shall not be less than five nor more than eleven and that the number of trustees of other public libraries shall not be less than five nor more than eleven. The number of trustees of joint public libraries authorized to be established by two or more municipalities or districts or any combination thereof shall be not less than five nor more than twenty-five, as determined by agreement of the voting bodies empowered to authorize the establishment of such libraries pursuant to subdivision one of section two hundred fifty-five of this chapter and shall be set forth in the resolution authorizing the establishment of such joint public library. Such resolution shall also set forth the number of such trustees which each of the participating municipalities or districts shall be entitled to elect or appoint, and the terms of office of the first trustees as determined in accordance with subdivision three of this section.

2. The trustees of public libraries authorized to be established by cities shall be appointed by the mayor and confirmed by the common council, in counties they shall be appointed by the county board of supervisors or other governing elective body, in villages they shall be appointed by the village board of trustees, in towns they shall be appointed by the town board, in school districts they shall be elected by the legal voters in the same manner as trustees are elected in the school district which established said library, and on Indian reservations they shall be elected at a general tribal election or otherwise designated by the chiefs or head men of an Indian tribe; that the first trustees shall determine by lot the year in which the term of office of each trustee shall expire and that a new trustee shall be elected or appointed annually to serve for five years. Notwithstanding the foregoing provisions of this subdivision, in any case where a town is a contributor to the support of any such public library in a village located within the town the appointment of trustees of such library who reside outside the village but within such town shall be subject to the approval of the town board of such town. The charter of any public library granted prior to April thirtieth nineteen hundred and twenty-one, which provides for trustees, their terms of office and method of election or appointment in a manner differing from that hereinbefore provided, shall remain in full force and effect until the regents, upon application of the library trustees, shall amend the charter to conform to the provisions of law in effect when such amendment is made.

3. The trustees of a joint public library authorized to be established by two or more municipalities or districts or any combination thereof shall be appointed or elected by the body authorized by subdivision two of this section to elect or appoint trustees of public libraries authorized to be established by such municipality or district. The number of such trustees to be elected or appointed by each of the participating municipalities or districts shall be determined as provided in subdivision one of this section. The term of office of such trustees shall be five years except that the terms of the first trustees shall be so arranged that the terms of as nearly as possible to one-fifth of the members shall expire annually.

4. No person who is a member of any municipal council or board authorized by this section to appoint public library trustees in any municipality shall be eligible for the office of such public library trustee in such municipality.

5. The boards of trustees of public, free association and Indian libraries shall hold regular meetings at least quarterly, and such boards shall fix the day and hour for holding such meetings.

6. The board of trustees of a library system or a public or free association library chartered by the regents of the state of New York may determine to contribute annually a sum of money to assist the Library Trustees Foundation of New York State in fostering, encouraging and promoting the further development of library activities throughout the state and financing programs in this state which will assist in the dissemination of information leading to the improvement and extension of library services.

7. The board of trustees of a public library established and supported by a school district shall, in addition to powers conferred by this or any other chapter, be authorized in its discretion to call, give notice of and conduct a special district meeting for the purpose of electing library trustees and of submitting initially a resolution in accordance with the provisions of subdivision one of section two hundred fifty-nine of this chapter. Such meeting shall be held prior to the first day of July but subsequent to the first day of April. Should the board of trustees of the library determine, in its discretion, not to notice and conduct such a meeting, then the election and budget vote will be noticed and conducted by the board of education of the school district as part of its annual meeting.

8. Candidates for the office of trustee of a public library established and supported by a school district shall be nominated by petition which shall meet the requirements of subdivision a of section two thousand eighteen of this chapter, except that such candidates shall be elected in the manner specified in subdivision b of such section except that the nominating petition filed pursuant to subdivision a or b or such section shall be signed by at least twenty-five qualified voters of the library district, or two percent of the voters who voted in the last previous annual election of members of the library board of trustees, whichever is greater. The provisions of this subdivision shall not apply to a charter granted prior to April thirtieth, nineteen hundred seventy-one that provides for a different procedure.

9. The board of trustees of a public library established and supported by a school district, in addition to any other powers conferred by this chapter, may, in its discretion, call, give notice of and conduct a special district meeting of the qualified voters of the school district for any proper library purpose, including the re-submission of a defeated library appropriation, at a time and place designated by said board of trustees, except as to those purposes set forth in subdivision seven of this section.

10. The board of trustees of a public library established and supported by a school district, in addition to any other powers conferred in this chapter, shall have the power to determine the necessity for construction of library facilities, to select a library site or sites, to select the architect, and to require that the board of education call, give notice of and conduct a special district meeting in accordance with the provisions of subdivision nine of this section for the purpose of designating and acquiring a site or sites and authorizing the issuance of obligations of the school district for acquisition and construction of library facilities, or either.

11. Whenever the board of trustees of a public library shall call, give notice of and conduct a special district meeting under subdivision seven or nine of this section, such meeting shall be established, noticed and conducted in the same manner and to the same extent as such meetings were theretofore established, noticed and conducted by the board of education of the school district, the board of trustees of the libraries making all the determinations and taking all action in respect thereto otherwise required of the board of education of the school district, except that the meeting need not, in the discretion of the board of trustees of the library, be held in separate election districts in those school districts where election districts have been established by the board of education. The board of registration shall meet as provided in section two thousand fourteen of this chapter and notice of the meeting shall be given in accordance with the provisions of sections two thousand four and two thousand seven of this chapter. The cost of all such meetings and registrations shall be a charge to the library.

Notwithstanding any other provision of law, prior to the discarding of used or surplus books or other such reading materials by trustees of a chartered public, cooperative or free association library which receives over ten thousand dollars in state aid, such trustees shall (i) offer to donate such books or materials which have no market value to a not-for-profit corporation or political subdivision located within the area of the library system or (ii) offer to sell such books or materials which do have a market value to the general public. The trustees shall retain any proceeds received from the sale of such books and materials for the purpose of maintaining and improving library service within the system.

§260-a. MEETINGS OF BOARD OF TRUSTEES. Every meeting, including a special district meeting, of a board of trustees of a public library system, cooperative library system, public library or free association library, including every committee meeting and subcommittee meeting of any such board of trustees in cities having a population of one million or more, shall be open to the general public. Such meetings shall be held in conformity with and in pursuance to the provisions of article seven of the public officers law. Provided, however, and notwithstanding the provisions of subdivision one of section ninety-nine of the public officers law, public notice of the time and place of a meeting scheduled at least two weeks prior thereto shall be given to the public and news media at least one week before such meeting.

§260-b. REDUCTION OF SALARIES FOR PURCHASE OF ANNUITIES. Each board of trustees of a library system, cooperative library system, public library or free association library in its discretion, may enter into a written agreement with any employee of such board to reduce the annual salary as otherwise payable by law of such employee for the purpose of purchasing an annuity for such employee. Any such agreement may be terminated at any time upon written notice by either such employee or such board. Nothing contained in this section shall be construed to diminish or impair any benefits to which such employee or his legal representatives or beneficiaries would be otherwise entitled had such salary reduction agreement not been entered into in accordance with the provisions of this section.

§260-c. REDUCTION OF SALARIES FOR TAX-DEFERRED ANNUITIES. The board of trustees of a library system, cooperative library system, public library or free association library, in its discretion, may enter into a written agreement with any of its employees to reduce the annual salary, as otherwise earned and payable by law, of such employee for the purpose of pro-

viding a tax-deferred annuity for such employee under the retirement system in which such employee is currently a member, but only if such retirement system specifically provides for such tax-deferred annuities, and subject to any provisions and limitations applicable thereto. Any such agreement may be terminated upon written notice by either such employee or such board. Nothing contained in this section shall be construed to diminish or impair any benefits to which such employee or his legal representatives or beneficiaries would be otherwise entitled had such salary reduction agreement not been entered into in accordance with the provisions of this section.

§261. INCORPORATION. Within one month after taking office, the first board of trustees of any such public library shall apply to the regents for a charter in accordance with the vote establishing the library.

§262. USE OF PUBLIC AND INDIAN LIBRARIES. Every library established under section two hundred fifty-five of this chapter shall be forever free to the inhabitants of the municipality or district or Indian reservation, which establishes it, subject always to rules of the library trustees who shall have authority to exclude any person who willfully violates such rules; and the trustees may, under such conditions as they think expedient, extend the privileges of the library to persons living outside such municipality or district or Indian reservation.

§263. REPORTS. Every library or museum, other than a school library, which enjoys any exemption from taxation or receives state aid or other privilege not usually accorded to business corporations shall make the report required by section two hundred fifteen of this chapter, and such report shall relieve the institution from making any report now required by statute or charter to be made to the legislature or to any department, court or other authority of the state. These reports shall be summarized and transmitted to the legislature by the regents with the annual reports of the university.

§264. INJURIES TO PROPERTY. Whoever intentionally injures, defaces or destroys any property belonging to or deposited in any incorporated library, reading-room, museum or other educational institution, shall be punished by imprisonment in a state prison for not more than three years, or in a county jail for not more than one year, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

§265. DETENTION. Whoever willfully detains any book, newspaper, magazine, pamphlet, manuscript or other property belonging to any public or incorporated library, reading-room, museum or other educational institution, for thirty days after notice in writing to return the same, given after the expiration of the time which by the rules of such institution, such article or other property may be kept, shall be punished by a fine of not less than one nor more than twenty-five dollars, or by imprisonment in jail not exceeding six months, and the said notice shall bear on its face a copy of this section.

§265-a. DEFENSE OF LAWFUL DETENTION. In any action for false arrest, false imprisonment, unlawful detention, defamation of character, assault, trespass or invasion of civil rights brought by any person by reason of having been detained on or in the immediate vicinity of the premises of a public library or association library for the purpose of investigation or questioning as to the ownership of any materials, it shall be a defense to such action that the person was detained in a reasonable manner and for not more than a reasonable time to permit such investigation or questioning by a peace officer or by the librarian in charge, his or her authorized employee or agent, and that such peace officer, librarian, employee or agent has reasonable grounds to believe that the person so detained was committing or attempting to commit larceny on such premises of such materials. As used an this section, "reasonable grounds" shall include, but not be limited to, knowledge that a person has concealed, unauthorized possession of material owned or belonging to the public library or association library, and a "reasonable time" shall mean the time necessary to permit the person detained to make a statement or to refuse to make a statement, and the time necessary to examine employees and records of the public library or association library relative to the ownership of the materials.

§266. TRANSFER OF LIBRARIES. By vote similar to that required by section two hundred fifty-five of this chapter any municipality or district or tribal government or combination of districts, or by action of its trustees at a meeting duly held any association library, incorporated or registered by the regents, may, when such vote or action has been duly approved by the regents, transfer, conditionally as provided in section two hundred fifty-seven of this chapter, or otherwise, the ownership and control of its library with all its property, real and personal, or any part thereof, to any municipality, or district, or institution providing for free library service; and the trustees or body making the transfer shall thereafter be relieved of all responsibility pertaining to property thus transferred.

§267. LOCAL NEGLECT. If the local authorities of any library supported wholly or in part by state money fail to provide for the support of such library and the public usefulness of its books, the regents shall in writing notify the trustees of said library what is necessary to meet the state's requirements, and on such notice all said library's rights to further grants of money or books from the state shall be suspended until the regents certify that the requirements have been met; and if said

trustees shall refuse or neglect to comply with such requirements within sixty days after service of such notice, the regents may remove them from office and thereafter all books and other library property wholly or in part paid for from state moneys shall be under the full and direct control of the regents who, as shall seem best for public interests, may appoint new trustees to carry on the library, or may store it, or distribute its books to other libraries.

§268. ABOLITION. Any library established by public vote of any municipality or district, or by vote of the common council of any city, or by vote of the board of trustees of any village, or by action of school authorities, or by vote of the tribal government of an Indian reservation, or under section two hundred fifty-five of this chapter, may be abolished by majority vote at an election, or at a meeting of the electors duly held, provided that due public notice of the proposed action shall have been given, or by vote of such tribal government. If any such library is abolished, its property shall be used first to return to the regents, for the benefit of other free association or public or school libraries in that locality, the equivalent of such sums as it may have received from the state or from other sources as gifts for public use. After such return any remaining property may be used as directed in the vote abolishing the library, but if the entire library property does not exceed in value the amount of such gifts, it may be transferred to the regents for public use, and the trustees shall thereupon be free from further responsibility. No abolition of a public library shall be lawful until the regents grant a certificate that its assets have been properly distributed and its abolition completed in accordance with law.

§270. ACCEPTANCE OF SURPLUS LIBRARY BOOKS OR PROPERTY. The state education department is hereby authorized to cooperate with the United States commissioner of education, the war assets administration, and/or other federal officers and officials in the administration of any statute heretofore or hereafter enacted for the disposal of surplus library books or property, and to accept for and on behalf of the state of New York or its political subdivisions surplus library books or other property suitable and necessary to the operation of public and free libraries and Indian libraries and for the improvement and extension of library service for New York state, and any funds, which may be made available to the state of New York by the federal government for these and related public and Indian library services.

§271. APPORTIONMENT OF STATE AID TO INDIAN LIBRARIES. Any Indian library chartered by the regents or in the absence of such library any tribal government contracting for service from a chartered and registered library or approved library system, shall be entitled to receive state aid during each calendar year consisting of the following amounts:

1. Thirteen thousand dollars, and

2. The sum of thirteen dollars per capita for persons residing on the reservation served by the Indian library or contract as shown by the latest federal census or certified by the New York state director of Indian services, and

3. The sum of one dollar per acre of area served by the Indian library or contract.

Such sums shall be paid to the Indian library board of trustees for the use of the Indian library, or in the absence of such a board, to the tribal government for a contract for library service. Nothing contained in this section shall be construed to diminish the funds, services or supplies provided to any Indian library by a library system as defined in section two hundred seventy-two of this article. Increases in appropriations for such purposes during a calendar year shall be pro rated.

§272. CONDITIONS UNDER WHICH LIBRARY SYSTEMS ARE ENTITLED TO STATE AID. 1. Public Library Systems.

a. The term "public library system" as used in this article means:

(1) A library established by one or more counties.

(2) A group of libraries serving an area including one or more counties in whole or in part.

(3) A library of a city containing one or more counties.

(4) A cooperative library system established pursuant to section two hundred fifty-five of this chapter, the plan of library service of any of which shall have been approved by the commissioner.

b. The "area served" by a public library system for the purposes of this article shall mean the area which the public library system proposes to serve in its approved plan of service. In determining the population of the area served by the public library system the population shall be deemed to be that shown by the latest federal census for the political subdivisions in the area served. Such population shall be certified in the same manner as provided by section fifty-four of the state finance law except that such population shall include the reservation and school Indian population and inmates of state institutions under the direction, supervision or control of the state department of correction, the state department of mental hygiene and the state department of social welfare. In the event that any of the political subdivisions receiving library service are included within a larger political subdivision which is a part of the public library system the population used for the purposes of computing state aid shall be the population of the larger political subdivision, provided however, that where any political subdivision within a larger political subdivi-

sion shall have taken an interim census since the last census taken of the larger political subdivision, the population of the larger political subdivision may be adjusted to reflect such interim census and, as so adjusted, may be used until the next census of such larger political subdivision. In the event that the area served is not coterminous with a political subdivision, the population of which is shown on such census, or the area in square miles of which is available from official sources, such population and area shall be determined, for the purpose of computation of state aid pursuant to section two hundred seventy-three by applying to the population and area in square miles of such political subdivision, the ratio which exists between the assessed valuation of the portion of such political subdivision included within the area served and the total assessed valuation of such political subdivision.

c. Members of a public library system shall be those public, free association, and Indian libraries located within the service area which have been admitted to membership prior to July first, nineteen hundred seventy-eight, or which apply for and are granted membership subsequent to that date with the approval of the commissioner. No public library system shall be subject to any loss of benefits under these provisions where such system has made reasonable effort to prevent the unapproved withdrawal of such library from the system and the system demonstrates, in a manner satisfactory to the commissioner, that the residents of the area encompassed by the withdrawing library will continue to benefit from the library service provided by the public library system.

d. "Approved plan" as used in this article means a plan of library service by a public library system approved by the commissioner subsequent to May first, nineteen hundred fifty-eight.

e. Approval shall not be given to a public library system unless it will serve at least two hundred thousand people or four thousand square miles of area, provided, however, that provisional approval may be given to a public library system which will serve at least fifty thousand persons provided the area served includes three or more political subdivisions and provided further that a satisfactory plan of expansion of service to be followed during the ensuing five-year period is adopted by such library system and approved by the commissioner.

f. The board of trustees of the public library system shall submit to the commissioner the plan of library service. Such plan shall be supported by such information as the commissioner may require in the form prescribed by him.

g. No such plan of library service shall be approved by the commissioner unless he finds that it provides for the residents of the area served thereby a method conforming to the regulations of the commissioner by which the participating libraries are obligated to permit the loan of books and material among members of the system for use on the same basis permitted by the library which owns or controls them.

h. The commissioner shall by regulation provide the standard of service with which such a public library system must comply. Such regulations shall among other things, relate to the total book stock; the diversity of such book stock with respect to general subjects and type of literature, provided that such regulation shall not, directly or indirectly, prohibit the inclusion of a particular book, periodical or material or the works of a particular author or the expression of a particular point of view; annual additions to book stock; circulation of book stock; maintenance of catalogues; number and location of libraries or branch libraries; hours of operation and number and qualifications of personnel, necessary to enable a public library system to render adequate service. Such regulations may establish standards which differ on the basis of population; density of population; the actual valuation of the taxable property within the area served; the condition of library facilities in existence on April first, nineteen hundred fifty-seven; the amount raised by taxation by or for the area served; the relation of such amount to population and actual value of the property taxed; the relation of the amount of funds received by a public library system from local taxes to that derived from private contributions; or on such other basis as the commissioner finds necessary to provide for the equitable distribution of state aid.

i. Each public library system receiving state aid pursuant to this section and section two hundred seventy-three shall furnish such information regarding its library service as the commissioner may from time to time require to discharge his duties under such sections. The commissioner may at any time revoke his approval of a plan of library service if he finds that the public library system operating under such plan no longer conforms to the provisions of this section or the regulations promulgated by the commissioner hereunder; or, in the case of provisional approval, if such library system no longer conforms to the agreement, plans or conditions upon which such provisional approval was based. In such case a public library system shall not thereafter be entitled to state aid pursuant to this section or section two hundred seventy-three unless and until its plan of library service is again approved by the commissioner.

j. (1) In the event that the total sum raised by local taxation exclusive of capital expenditures for the support of a public library system and participating libraries in an annual period beginning January first, nineteen hundred seventy-nine, is less than ninety-five per centum of the average of the amounts raised for such purposes by

local taxation for the two preceding calendar years, the state aid to which such library system would otherwise be entitled beginning April first, nineteen hundred eighty, shall be reduced by twenty-five per centum. However, state aid paid between April first, nineteen hundred seventy-eight and March thirty-first, nineteen hundred eighty, shall be reduced by twenty-five per centum only in the event such local support shall be less than the average of calendar years nineteen hundred sixty-four and nineteen hundred sixty-five. Such state aid shall likewise be reduced by twenty-five per centum in the event that the public library system shall refuse after reasonable notice to make provision for the expansion of the area served in accordance with the regulations of the commissioner.

(2) In the event that the total sum raised by local taxation, exclusive of capitol expenditures, for the support of a central library of a public library system in an annual period beginning January first, nineteen hundred seventy-nine, is less than ninety-five per centum of the average of the amounts raised for such purposes by local taxation for the two preceding calendar years, the state aid to which such library system would otherwise be entitled for the development of its central library, beginning April first, nineteen hundred eighty, shall be reduced by twenty-five per centum. However, state aid paid between April first, nineteen hundred seventy-eight and March thirty-first, nineteen hundred eighty for such purpose, shall be reduced by twenty-five per centum only in the event such local support shall be less than the average of calendar years nineteen hundred sixty-four and nineteen hundred sixty-five.

k. In promulgating regulations and approving, rejecting or revoking plans of library service pursuant to this section, consideration shall be given to:

(1) The prevention of unreasonable discrimination among the persons served by such public library system.

(2) The need for rapid expansion of library facilities in areas not now served.

(3) The need of each public library system for the professional services of an adequate number of librarians having, in addition to general familiarity with literature, special training with respect to book selection and organization for library use.

(4) The need for a book stock sufficient in size and varied in kind and subject matter.

(5) The need for regular fresh additions to book stock.

(6) The need for adequate books, materials, and facilities for research and information as well as for recreational reading.

(7) The need for libraries, branches, and other outlets convenient in location, and with adequate hours of service.

(8) The desirability for the integration of existing libraries and new libraries into systems serving a sufficiently large population to support adequate library service at a reasonable cost.

(9) The need for the economic and efficient utilization of public funds.

(10) The need for full utilization of local pride, responsibility, initiative and support of library service and the use of state aid in their stimulation but not as their substitute.

(11) The needs of special populations.

(2) Reference and research library resources systems.

a. The term "reference and research library resources system" as used in this article means a duly chartered educational institution resulting from the association of a group of institutions of higher education, libraries, non-profit educational institutions, hospitals, and other institutions organized to improve reference and research library resources service. Such reference and research library resource systems may be registered upon meeting the standards set forth by the commissioner.

b. The "area served" by a reference and research library resources system for the purposes of this article shall include not less than seven hundred fifty thousand persons, as based upon the latest approved federal census, or not less than ten thousand square miles; and the defined area of service shall:

(1) Include more than one county; and

(2) Respect the integrity of the area of service of a public library system; and

(3) Constitute a service area effectively related to the availability of information resources and services and to the area of service of other reference and research library resources systems, as determined by the commissioner.

c. Membership in a reference and research library resources system.

(1) The membership shall include at least four chartered degree-granting institutions of higher education of the four year level whose libraries meet departmental standards.

(2) Membership shall also include either:

(i) at least one chartered degree-granting institution of higher education offering graduate programs for a master's degree whose library holds not less than two hundred seventy-five thousand volumes and currently receives not less than three thousand periodical titles, or

(ii) a public library which holds not less than four hundred thousand adult volumes and currently receives not less than one thousand five hundred periodical titles.

(3) The membership may also include approved public library systems which are within the region served by the reference and research library resources system.

(4) A reference and research library resources system may set its own minimum standards for membership consistent with regulations of the commissioner, except that;

(i) any chartered institution of higher education whose library meets the departmental standards shall be eligible for membership, and

(ii) any chartered institution of higher education whose library does not meet the departmental standards may not be eligible for membership unless it submits to the department a five-year plan for the realization of the standards, the plan bearing the signed approval of the head librarian, the president, and the academic dean of the institution, and

(iii) any hospital whose library meets the standards established by the regents in accordance with section two hundred fifty-four of this article shall be eligible for membership, and

(iv) any hospital whose library does not meet the standards established by the regents will not be eligible for membership unless it submits to the commissioner a five year plan for the realization of the standards, such plan bearing the signed approval of the head of the governing board of such hospital.

(5) The member institutions of each reference and research library resources system shall be broadly representative of the chartered educational agencies, nonprofit organizations, hospitals and other special libraries providing library service within the defined area of services of the system.

d. Plan of service.

(1) The reference and research library resources system shall submit a plan of service to the commissioner for approval, in a form to be prescribed by the commissioner to cover resources, needs, proposed program, budget, contractual agreements, and any other information which the commissioner may require.

(2) The plan of service must show the manner in which the reference and research library resources system will improve the library resources and services presently available in the area to the research community, including improved reader access.

(3) The plan of service shall indicate the manner in which the reference and research library resources system strengthens the library programs of its members and the manner in which the system program is related to appropriate regional programs in higher education.

(4) The plan of service shall identify the resources and needs of each hospital library, or library serving hospitals and show the manner in which the reference and research library resources system will improve hospital library services and in which it will assist each hospital library which does not meet the regents' standards to attain such standards and will assist each nonmember hospital library or library serving a hospital to attain membership in the system.

e. The commissioner shall by regulation establish the standard of service to be met by such a reference and research library resources system.

f. Each reference and research library resources system receiving state aid pursuant to this section and section two hundred seventy-three of this article shall furnish such information regarding its library service as the commissioner may from time to time require to discharge his duties under such sections. The commissioner may at any time revoke his approval of a plan of library service if he finds that the library system operating under such plan no longer conforms to the provisions of this section or the regulations promulgated by the commissioner hereunder. In such case a library system shall not thereafter be entitled to state aid pursuant to this section and section two hundred seventy-three of this article unless and until its plan of library service is again approved by the commissioner.

g. In promulgating regulations and approving, rejecting or revoking plans of library service pursuant to this section, consideration shall be given to:

(1) The prevention of unreasonable discrimination among the persons served by such library system;

(2) The need for regional resources of sufficient size and varied in kind and subject matter;

(3) The need for adequate books, materials (print and non-print) and facilities for research and information;

(4) The need for outlets convenient in time and place for the sharing of library materials;

(5) The need for the economic and efficient utilization of public funds;

(6) The need for full utilization of local responsibility, initiative and support of library service and the use of state aid in their stimulation but not as their substitute.

(7) The need for adequate books, materials, including both print and non-print materials, and facilities for current medical information services to be provided each hospital.

§273. APPORTIONMENT OF STATE AID. 1. Any public library system providing service under an approved plan during a calendar year shall be entitled to receive during that calendar year state aid consisting of the following amounts:

a. An annual grant of:

(1) Ten thousand dollars where the library system serves less than one county, or

(2) Twenty thousand dollars where the library system serves one entire county, or

(3) Where the library system serves more than one county the system shall be entitled to receive twenty-five thousand dollars for each entire county served and/or ten thousand dollars for each county, any part of which is served by the library system. If an entire county is served by two or more library systems, each of which serves a part thereof, each of such library systems shall be entitled to receive a grant of ten thousand dollars and in addition, a pro rata share of an additional sum of ten thousand dollars, such share to be computed in accordance with the ratio which the population of the area of the county served by such library system bears to the total population of the county, as determined under subdivision two of section two hundred seventy-two of this chapter.

b. In a library system which submits a plan for further development of its central library, which plan shall be approved by the commissioner in relation to standards for such central libraries, the amount of central library development aid shall be:

(1) twenty-three cents per capita of the population within the chartered area of service of such library system with a minimum amount of eighty-five thousand dollars, and

(2) an additional fifty-five thousand dollars to the library system for the purchase of books and materials including nonprint materials, as defined in regulations of the commissioner of education, for its central library. Such additional aid shall be payable on order and warrant of the comptroller on vouchers certified, or approved by the commissioner in the manner provided by law. Ownership of library materials and equipment purchased with such central library aid provided by this paragraph shall be vested in the public library system.

c. The sum of sixty-eight cents per capita of population of the area served.

d. An amount equal to the amount by which expenditures by the library system for books, periodicals, binding and nonprint materials during the preceding calendar year exceeds forty cents per capita of population of the area served but the total apportionment pursuant to this paragraph d shall not exceed fifty-one cents per capita of population served.

e. The sum of thirty-four dollars per square mile of area served by the library system in the case of library systems serving one county or less. Such sum of thirty-four dollars shall be increased by five dollars for each additional entire county served, provided, however, that no apportionment pursuant to this paragraph e shall exceed fifty-four dollars per square mile of area served. If an entire county is served by two or more library systems, each of which serves a part thereof, each of such library systems shall be entitled to receive, in addition to the aid computed in accordance with the foregoing provisions of this paragraph, a pro rata share of an increase of five dollars to be computed as follows: the sum resulting from the computation of five dollars per square mile of area served by the one of such library systems which would receive the largest amount of aid pursuant to this paragraph shall be pro rated among the library systems serving such county in accordance with the ratio which the population of the area served by each of such library systems bears to the population of the county as determined under subdivision two of section two hundred seventy-two of this chapter.

f. (1) Local library incentive aid shall be paid annually as follows: the amount of seven cents for every one dollar contributed by local sponsors to the approved public library systems and to registered public and free association libraries which are members of a public library system and which conform to regulations adopted by the commissioner, except that no library system shall receive a sum which is more than sixty percent greater than the sum received in local library incentive aid in nineteen hundred eighty-three and further provided that the aid shall be disbursed according to a plan agreed upon by the public library system board of trustees and the boards of trustees of a majority of the member libraries which shall provide that:

(i) at least forty percent of the total amount paid to any public library system under this provision shall be used by the system for systemwide services.

(ii) at least forty percent of the total amount paid to any public library system under this provision shall be distributed to its member public and free association libraries.

(2) A "local sponsor" shall mean any municipality, district or school district, as defined in the general municipal law, or any combination thereof.

(3) The local sponsor contribution shall be that amount other than funds allocated for capital expenditure or debt service received in any calendar year by a public library system or a public or free association library from such sponsor.

(4) Of the annual amount payable under this paragraph, fifty percent shall be paid on July fifteenth and fifty percent on November fifteenth in each year.

g. In addition to the sums provided in paragraphs a, b, c, d, e, f, h and i of this subdivision, The New York Public Library shall receive an amount equal to its actual ex-

penditures for books, periodicals and binding for its research libraries which expenditures are not otherwise reimbursed or five hundred seventy-five thousand dollars whichever is less, and the additional sum of four million two hundred thirty-five thousand dollars for the general support of such research libraries.

h. Each public library system which provides coordinated outreach services as defined by regulations to be promulgated by the commissioner, to persons who are educationally disadvantaged or who are members of ethnic or minority groups in need of special library services, or who are unemployed and in need of job placement assistance, or who live in areas underserved by a library, or who are blind, physically handicapped, aged or confined in institutions, shall be entitled to receive annually forty thousand dollars and six cents per capita of the total population of the area served except that for the calendar year nineteen hundred eighty-four per capita aid shall be two cents.

i. In addition to any other sums provided for such purposes, the New York Public Library shall receive annually the sum of five hundred fifty thousand dollars for the program of the Schomburg center for research in black culture, and the additional sum of four hundred ninety-five thousand dollars for the program of the library for the blind and physically handicapped.

j. In addition to any other sums provided to such library the sum of three hundred fifty thousand dollars shall be made available to the Brooklyn Public Library for its business library for each calendar year.

k. In addition to any other sums provided to such library the sum of fifty thousand dollars shall be made available to the Buffalo and Erie County Public Library for a continuity of service project approved by the commissioner for each calendar year.

l. In addition to any other sums provided to such library system the sum of thirty thousand dollars shall be made available to the Nassau library system for a continuity of service project approved by the commissioner for each calendar year.

m. Effective January first, nineteen hundred eighty-four, the minimum annual grant available to a library system under paragraphs a, c, d and e of this subdivision shall be five hundred fifty thousand dollars.

2. Within the amounts appropriated therefor moneys paid out pursuant to this section shall be paid out of the state treasury on vouchers certified by the commissioner after audit by and upon the warrant of the comptroller.

3. The commissioner may waive the requirement that a public library system serve an entire county to earn the maximum annual grant under subparagraphs two and three of paragraph a of subdivision one of this section and paragraphs b, c, e and h of subdivision one of this section where he deems reasonable effort has been made by the system to encourage membership by all libraries in the county.

4. Reference and research library resources system. a. Any reference and research library resources system providing service under an approved plan during a calendar year shall be entitled to receive annual state aid consisting of an annual grant of two hundred thousand dollars plus the sum of one dollar per square mile of area served plus the sum of four cents per capita of the population of the area served. Each system may annually appropriate the amount of ten thousand dollars or less of the aid received under this provision to obtain matching funds from the National Endowment for the Humanities in the United States Newspaper Program. Of the annual amount payable to each approved system under this paragraph, half of the said amount or one hundred fifty-five thousand dollars, whichever is greater, shall be paid on July first and the remainder shall be paid after receipt of annual system activity reports satisfactory to the commissioner.

b. The commissioner of education is hereby authorized to expend up to three hundred fifty thousand dollars annually to contract with the New York Academy of Medicine, or such other agency or agencies as he may deem appropriate, to provide service to the reference and research library resources systems under the federal regional medical library program.

c. (1) The commissioner of education is hereby authorized to expend up to four hundred ninety thousand six hundred dollars in calendar year nineteen hundred eighty-four and up to six hundred seventy-three thousand dollars annually thereafter to provide grants to reference and research library resources systems for provision of services to member hospital libraries in not-for-profit hospitals licensed by the New York State Health Department, or to libraries serving such hospitals which are located in non-rural areas or rural area provided, however, that the New York metropolitan reference and research library agency shall receive such grants pursuant to subparagraph four of this paragraph. For the purpose of this program, the commissioner shall define rural area on the basis of population, population density, and population characteristics. Such grants shall be determined on the basis of criteria to be developed by the commissioner including specific reference to five year plans to assist member hospital libraries or libraries serving hospitals in meeting the standards established by the regents in accordance with section two hundred fifty-four of this article, to provide integration of member hospital libraries or libraries serving hospi-

tals into existing networks and to increase the number of member hospital libraries or libraries serving hospitals.

(2) In the calendar year nineteen hundred eighty-four, the commissioner shall provide grants to the reference and research library resources systems in the following manner:

(a) an amount equal to three hundred dollars per non-rural hospital library in a not-for-profit hospital licensed by the state health department located within the reference and research library resource system for assessment and planning purposes, not to exceed a total of eighteen thousand dollars,

(b) an amount equal to seventy-five cents per square mile of area served by the reference and research library resource system in furtherance of the purposes of this paragraph, and

(c) the remainder for library services to hospitals in rural areas in accordance with regulations of the commissioner adopted for such purpose.

(3) In the calendar year nineteen hundred eighty-five and thereafter, the commissioner shall provide grants to the reference and research library resources systems in the following manner:

(a) an amount equal to seventy-five cents per square mile of area served by the reference and research library resource system in furtherance of the purposes of this paragraph, and

(b) the remainder for library services to hospitals in nonrural or rural areas in accordance with regulations of the commissioner adopted for such purpose.

(4) The commissioner of education is authorized to expend ten thousand dollars in calendar year nineteen hundred eighty-four and twenty thousand dollars in calendar year nineteen hundred eighty-five to provide grants to the New York metropolitan reference and research agency for the assessment and planning purposes of subparagraph one of this paragraph. Such amount shall be in addition to the amount provided for in subparagraph one of this paragraph.

5. Coordinated collection development program for public and nonprofit independent colleges and universities.

a. Libraries of public and nonprofit independent colleges and universities are entitled to receive annual funding for a coordinated collection development grant if they meet the following conditions:

(1) Membership in a reference and research library resources system,

(2) Their resources are made available to the public, through full participation in the interlibrary loan and other resource sharing programs of the reference and research library resources system of which they are members, and

(3) They meet the requirements set forth in regulations adopted by the commissioner of education including but not confined to

(a) maintenance of effort,

(b) relationships between reference and research library resources systems programs and the regional higher education master plan,

(c) submission of interlibrary loan statistics, and such other reports as may be required by the commissioner.

b. Public community colleges and nonprofit independent colleges and universities with libraries which meet the criteria of paragraph a of this subdivision are eligible for annual grants as follows:

(1) Four thousand dollars for each institution, and

(2) Sixty cents for each full-time equivalent student enrolled in each qualifying institution, in the academic year completed prior to the state fiscal year. For purposes of this section, a full-time equivalent shall be calculated as follows:

(i) one full-time undergraduate student shall be considered one full-time equivalent student;

(ii) one part-time undergraduate student shall be considered one-third of a full-time equivalent student;

(iii) one part-time graduate student shall be considered one full-time equivalent student; and

(iv) one full-time graduate student shall be considered one and one-half of a full-time equivalent student.

6. Regional bibliographic databases and interlibrary resources sharing.

a. The commissioner may award annually from funds appropriated by the legislature a grant of not less than eighty thousand dollars nor more than two hundred thousand dollars to the reference and research library resources system or public library system designated by cooperating systems to submit an acceptable plan for an automation program to support bibliographic control and interlibrary sharing of information resources in an area not less than that of a reference and research library resources system, provided, however, that the total of all such grants may not exceed one million three hundred thousand dollars.

b. To be eligibile for a grant, a five-year plan for a regional library automation program together with an annual plan and budget shall be submitted by the reference and research library resources system or public library system acting as designated agent for the cooperating systems with the approval of all systems within the region. The five-year plan shall describe a comprehensive automation program, shall identify sources of

program support in addition to the state aid funds requested, and shall designate an agent which is legally authorized to receive grant payments. The approval of five-year plans and determination of annual grants shall be in accordance with regulations to be developed by the commissioner which shall establish standards relating to library automation, continuous development of the data base, and updating, access and linking of the data base program.

c. In accordance with regulations adopted by the commissioner, a public library system or a reference and research library resources system acting as designated agent for the cooperating systems is authorized to enter into contracts with the state education department to provide cooperative services for the statewide data base development, data communication and document delivery.

7. Conservation and preservation of library research materials.

a. The commissioner may award an annual grant of ninety thousand dollars for a program of conservation and/or preservation of library research materials to each of the following comprehensive research libraries: Columbia university libraries, Cornell university libraries, New York state library, New York university libraries, university of Rochester libraries, Syracuse university libraries, the research libraries of the New York public library, state university of New York at Albany library, state university of New York at Binghamton library, state university of New York at Buffalo library, and state university of New York at Stony Brook library.

b. To be eligible for such grants, each such comprehensive research library must submit both a five-year plan and an annual program budget. The plan must satisfy criteria to be established by the commissioner in regulations relating to the identification of library research materials, the need for their preservation, and the means of their conservation.

c. For aid payable in the calendar year nineteen hundred eighty-five and thereafter, the commissioner shall award grants not to exceed two hundred thousand dollars in any year to agencies and libraries not eligible for funding under paragraph a of this subdivision for the purpose of the conservation and/or preservation of unique library research materials. Project proposals shall be evaluated based upon factors including but not limited to: institutional commitment to development of a collective capacity and coordinated approach to conservation and preservation of research materials important to the people of the state; research value of materials to be preserved and/or conserved; appropriateness of conservation and preservation techniques in accordance with statewide planning and national standards; institutional capacity for successful completion of the project, including facilities, experience, and technical expertise; availability of staff with appropriate training and expertise; contribution of the institution to the project in matching funds and staff resources; and volume of interlibrary lending and access to holdings by the public.

d. The commissioner shall establish an office for coordination of conservation and/or preservation of library research materials to identify the conservation and preservation needs of libraries within the state, to assess the technology available for such conservation and preservation, and to coordinate the conservation and preservation efforts resulting from this legislation. The commissioner shall also establish an advisory council on conservation and preservation to assist in the development and operation of this program.

§273-a. STATE AID FOR LIBRARY CONSTRUCTION. 1. State aid shall be provided for up to fifty percent of the approved costs, excluding feasibility studies, plans or similar activities, for acquisition, construction, renovation or rehabilitation, including leasehold improvements, of buildings of public libraries and library systems chartered by the regents of the state of New York or established by act of the legislature subject to the limitations provided in subdivision four of this section and upon approval by the commissioner.

2. Each application for state aid shall be submitted by the board of trustees of the library or library system responsible for the operation of the subject building to the commissioner for his review and approval, after having been reviewed and approved by the governing board of the public library system of which such library is a member. Each application shall:

a. demonstrate that resources are or shall be available to provide for maximum utilization of the project if approved;

b. contain verification in such form as may be acceptable to the commissioner that the total cost of the project, exclusive of state aid, has been or will be obtained;

c. demonstrate that library operations would be made more economical as a consequence of approval;

d. be limited to one project concerning such building, provided that no building shall be the subject of more than one application per year; and

e. provide such other information as may be required by the commissioner.

3. In approving any application the commissioner shall consider the condition of existing libraries and, where appropriate, the needs of isolated communities, provided that no application shall be approved for a pro-

ject that is deemed by him to be more than sixty percent complete as of the date of the application.

4. Aid shall be distributed pursuant to this section as follows:

a. sixty percent of the funds appropriated pursuant to this section shall be made available to libraries within each system by the commissioner in such manner as to insure that the ratio of the amount received within each system to the whole of the aid made available pursuant to this paragraph is no greater than the ratio of the population served by such system to the population of the state;

b. forty percent of the funds appropriated pursuant to this section shall be made available to library systems or libraries within each system by the commissioner in such manner as to insure that an equal amount is received within each system in the state;

c. any funds made available pursuant to paragraph a or b of this subdivision which by January first, nineteen hundred eighty-five, and October first of each succeeding fiscal year, are declined by such libraries or library systems for any reason, or which cannot otherwise be used by such libraries or library systems for any reason, shall be made available to other libraries within such system, or if no such library can use such funds shall be reallocated among the other library systems and their libraries in a manner that will to the extent possible provide from such reallocated funds an equal amount to each such system.

5. The commissioner shall adopt rules and regulations as are necessary to carry out the purposes and provisions of this section.

6. The commissioner shall report by September thirtieth of each year to the governor, the temporary president of the senate, the speaker of the assembly, the chairs of the senate finance committee and the assembly ways and means committee concerning the amounts appropriated and expended pursuant to this section, the status of each project for which any amount of state aid was provided as of the date of the report, the status of any project for which an application was submitted but for which no aid was provided as of the date of the report, the anticipated state aid necessary to be provided for eligible projects to be completed and such other information as the commissioner may deem appropriate.

§282. ESTABLISHMENT OF SCHOOL LIBRARY SYSTEMS. The commissioner is authorized to approve the establishment of school library systems, each system to be composed of school districts which are located within a board of cooperative educational services area, or a school district serving a city with a population of one hundred twenty-five thousand or more, or combinations thereof. The systems may include non-public school libraries as defined in regulations to be promulgated by the commissioner. Upon establishment, such school library systems shall be governed by either their respective boards of cooperative educational services, by boards of education in school districts serving cities with populations of one hundred twenty-five thousand or more, or by a governing body established under the plan to be submitted to the commissioner in cases of systems serving a combination of areas.

§283. FUNCTIONS OF SCHOOL LIBRARY SYSTEMS. The functions of school library systems shall include but not be limited to: (a) creating, and developing a union catalog of materials listing the resources of each participating school library; (b) developing a plan which will aid each participating school library in cooperative collection development; (c) adopting and implementing an interlibrary loan policy and program among participating school libraries; (d) assuring a method of effective delivery of library materials within the system; (e) promoting development programs and continuing education for staff of participating schools; (f) encouraging awareness of the resources and services available in participating school libraries; and (g) cooperating with other library systems in resource sharing and other activities.

§284. STATE AID. 1. Each school library system established pursuant to section two hundred eighty-two of this article shall be eligible to receive funding under this section.

2. For the nineteen hundred eighty-four – eighty-five school year funding shall be provided in the following manner:

(a) Each board of cooperative educational services or school district serving a city with a population of one hundred twenty-five thousand or more or combination thereof which has not received funding under section seventeen of chapter seven hundred eighty-seven of the laws of nineteen hundred seventy-eight shall be eligible for a grant of twenty thousand dollars for the purposes of developing a plan of service;

(b) Each school library system with a public and nonpublic school enrollment of less than one hundred thousand students which receive funding from section seventeen of chapter seven hundred eighty-seven of the laws of nineteen hundred seventy-eight shall receive a grant of sixty-five thousand dollars;

(c) Each school library system with a public and nonpublic school enrollment of one hundred thousand students but less than two hundred thousand students which received funding from section seventeen of chapter seven hundred eighty-seven of the laws of nineteen hundred seventy-eight shall receive a grant of ninety thousand dollars;

(d) Each school library system with a public and nonpublic school enrollment of two hundred thousand students but less than five hundred thousand students which received funding from section seventeen of chapter seven hundred eighty-seven of the laws of nineteen hundred seventy-eight shall receive a grant of one hundred twenty-five thousand dollars; and

(e) Each school library system with a public and nonpublic school enrollment of five hundred thousand students or more which received funding from section seventeen of chapter seven hundred eighty-seven of the laws of nineteen hundred seventy-eight shall receive a grant of four hundred thousand dollars.

(3) For the nineteen hundred eighty-five–eighty-six school year and each school year thereafter funding shall be provided in the following manner:

(a) Each school library system with a public and nonpublic school enrollment of less than one hundred thousand students shall receive a grant of sixty-five thousand dollars;

(b) Each school library system with a public and nonpublic school enrollment of one hundred thousand students but less than two hundred thousand students shall receive a grant of ninety thousand dollars;

(c) Each school library system with a public and nonpublic school enrollment of two hundred thousand students but less than five hundred thousand students shall receive a grant of one hundred twenty-five thousand dollars; and

(d) Each school library system with a public and nonpublic school enrollment of five hundred thousand students or more shall receive a grant of seven hundred thousand dollars.

4. Before a school library system shall be entitled to receive operating funds, such system shall submit a plan of library service to the commissioner for approval. The commissioner shall establish standards of service for school library systems by regulation. Such regulations shall contain standards relating to: system staffing; union catalog and database development; interlibrary loan; communications and delivery; governance and advisory committees; membership criteria and the means of relating district library resources and programs to those of the system; non-public school participation; and procedures for submission and approval of plans and certification of membership.

5. The moneys made available pursuant to this section shall be distributed to each school library system whose plan of service has been approved under the provisions of subdivision four of this section.

6. Each school library system receiving state aid pursuant to this section shall furnish such information regarding its library service as the commissioner may from time to time require to determine whether it is operating in accordance with its plan and the standards of service he has established. The commissioner may at any time after affording notice and an opportunity to be heard, revoke approval of a plan of library service if he finds that the school library system no longer conforms to its approved plan, the provisions of this section or the regulations promulgated by the commissioner hereunder; or, in the case of provisional approval, if such school library system no longer conforms to the agreement, plans or conditions upon which such provisional approval was based. In such case a school library system shall not thereafter be entitled to state aid pursuant to this section unless and until its plan of library service is again approved by the commissioner.

§285. STATE AID FOR COOPERATION WITH CORRECTIONAL FACILITIES. Each public library system which has a state correctional facility or facilities within its area of service shall be awarded a grant of nine dollars twenty-five cents per capita for the inmate population of such facility or facilities upon the approval by the commissioner of a plan of service, negotiated between the area correctional facilities libraries and the corresponding library systems to make available to the inmate population of such facility or facilities the library resources of such system. Plans shall also include organizing and providing evaluation and accountability procedures and records for each region. A grant of two hundred eighty thousand dollars shall be made available to the commissioner for such programs.

ARTICLE 41 – DISTRICT MEETINGS

PART I – GENERAL PROVISIONS

§2018-a. ABSENTEE BALLOTS FOR BOARD MEMBER ELECTIONS. 1. The board of education of any school district which elects school board members pursuant to the provisions of sections two thousand seven and two thousand thirteen of this chapter, may, by resolution adopted at a regularly scheduled meeting, provide for absentee ballots for the election of members of the board of education and school district public library trustees only, in accordance with the provisions of this section. Such resolution shall take effect at the first such election held more than sixty days after its adoption and shall continue in effect for all such elections until a subsequent resolution holding otherwise shall, in like manner, have taken effect.

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ARTICLE 51 – CITY SCHOOL DISTRICTS OF CITIES WITH LESS THAN ONE HUNDRED TWENTY-FIVE THOUSAND INHABITANTS

§2503. POWERS AND DUTIES OF BOARD OF EDUCATION. Subject to the provisions of this chapter, the board of education: 1. ...

2. ...

3. ...

4. a. ...

b. May maintain public libraries pursuant to section two hundred fifty-five of this chapter, or may contract with any public library or any free association library registered by the regents pursuant to section two hundred fifty-six thereof, provided, however, that no vote of the electors of the city school district shall be required for such maintenance or contract; may organize and maintain public lecture courses; and shall establish and equip such playgrounds, recreation centers and social centers as the board from time to time shall deem proper.

CHAPTER 348, LAWS OF 1984

§8. REGIONAL BIBLIOGRAPHIC DATABASES AND INTERLIBRARY RESOURCE SHARING. The sum of one hundred forty-five thousand dollars ($145,000), or so much thereof as may be necessary, is hereby appropriated out of any moneys in the general fund to the credit of the state purposes account and not otherwise appropriated, to the commissioner of education for the purposes of this act relating to the regional bibliographic data bases and interlibrary resources sharing, of which twenty-five thousand dollars ($25,000) shall be made available for the purpose of conducting a study of technology for improved library service through the coordinated resource sharing and document delivery, and of which twenty-five thousand dollars ($25,000) shall be made available for the purposes of maintaining statewide information resource files, monitoring development of regional automation projects, and providing guidance to library systems in the development and revision of plans for the application of technology to library resource sharing, and of which fifty thousand dollars ($50,000) shall be made available for expenses of the office of coordination and conservation/preservation of research library materials and of the advisory council, and of which forty-five thousand dollars ($45,000) shall be made available for conservation projects at the state library. Such sums shall be payable on the audit and warrant of the state comptroller on vouchers certified or approved in the manner prescribed by law.

§9. COORDINATED COLLECTION DEVELOPMENT AND CONSERVATION/PRESERVATION. The sum of one hundred ninety-nine thousand dollars ($199,000), or so much thereof as may be necessary, is hereby appropriated out of any moneys in the general fund to the credit of the state purposes account not otherwise appropriated, to the state university of New York, of which nineteen thousand dollars ($19,000) shall be made available for the coordinated collection development and of which one hundred eighty thousand dollars ($180,000) shall be made available for conservation and preservation of library research materials at the four university research libraries. Such moneys shall be payable on the audit and warrant of the comptroller on vouchers certified or approved in the manner prescribed by law.

§10. The sum of twelve million eight hundred twenty-two thousand sixty dollars ($12,822,060), or so much thereof as may be necessary, is hereby appropriated out of any moneys in the general fund to the credit of the local assistance account, and not otherwise appropriated, of which ten thousand dollars ($10,000) shall be made available to the city university of New York for the purposes of coordinated collection development, and of which three million dollars ($3,000,000) shall be made available for the acquisition, construction, renovation and/or rehabilitation of public libraries provided for in section two hundred seventy-three-a of the education law, and of which ten million two thousand sixty dollars ($10,002,060) shall be made available to the department of education to be used in carrying out the provisions of this act. Such moneys shall be payable on the audit and warrant of the comptroller on vouchers certified or approved in the manner prescribed by law.

§11. The sum of two hundred thousand dollars ($200,000), or so much thereof as may be necessary, is hereby appropriated out of any moneys in the general fund to the credit of the local assistance account and not otherwise appropriated, to the education department, of which one hundred thousand dollars shall be made

available to the Four County library system for automation of library circulators and on-line systems, and of which one hundred thousand dollars shall be made available to the Mid-York library system for an automated data inter link system in conjunction with the Madison-Oneida board of cooperative educational services automation project including terminals at the Utica Public, Jervis, Ilion Free, Frank J. Basloe, Oneida, Canastota, New Hartford and Dunham public libraries. Such moneys shall be payable on the audit and warrant of the comptroller on vouchers certified and approved in a manner prescribed by law.

§12. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after January first, nineteen hundred eighty-four except that paragraph a of subdivision four of section two hundred seventy-three of the education law shall take effect April first, nineteen hundred eighty-four and subdivisions six and seven of section two hundred seventy-three of such law shall take effect July first, nineteen hundred eighty-four and section two hundred eighty-five of such law shall take effect October first, nineteen hundred eighty-four.

RULES OF THE BOARD OF REGENTS
PART 10 – STATE LIBRARY AND STATE MUSEUM

§10.1 ORGANIZATION. The commissioner shall have charge, care and control of the State Library and the State Museum and shall make regulations for their organization and conduct.

§10.2. CERTIFICATION OF COPIES. The commissioner, the State Librarian and Assistant Commissioner for Libraries, or the head of the manuscripts and history section of the State Library, may, pursuant to section 382 of the Civil Practice Act, certify copies of or transcripts from books, manuscripts or other records in the State Library. For the purpose of such certification the seal of the department may be used.

PART 11
LIBRARY EXTENSION

Section 11.1 APPROVED LIBRARY REQUIREMENTS. The commissioner shall establish regulations for the registration of libraries and auxiliary units, for personnel, for quarters and equipment, for collections, for schedules of service and reports.

11.2 APPORTIONMENTS TO FREE LIBRARIES. (a) A registered library unit shall be subject to visitation and inspection by the department, and so long as it maintains approved standards shall be entitled to the rights and privileges provided by the Education Law.

(b) Library units set up to provide for circulation of materials, and registered by the Regents, may receive annually, so far as the available appropriation permits, apportionments equal to the money raised by them from other sources. One first apportionment may be made to a newly incorporated library before it has been registered.

11.3 USE OF MONEY. (a) The apportionments and the local equivalent must be spent for approved books, serials and other appropriate library materials, unless otherwise used by special written permission of the commissioner.

(b) A trustee of a free association, public or Indian library incorporated or registered by the Regents shall not take pay from such library for services rendered as an officer or employee thereof.

11.4 ANNUAL REPORTS OF LIBRARIES. Every library in the University, other than a school library, shall transmit to the department annually on February 1, a report for the previous year ending December 31 in such form as shall be prescribed by the commissioner; but a library may report for a year ending on some other date with the approval of the commissioner. Any library in the University whose annual report for the preceding year is not received within 60 days after the expiration of such year shall not participate in any apportionments of library money for the ensuing State fiscal year unless such neglect is duly excused by the commissioner. Any library failing to report for two consecutive years shall be deemed to have discontinued its functions, and after due notice its registration may be rescinded, or its charter suspended.

11.5 LIBRARY COUNCIL. It shall be the duty of the library council to communicate annually to the Regents recommendations relating to the department's service.

11.6 EXAMINATION COMMITTEE. The commissioner, with the approval of the Regents, shall appoint a committee to prepare question papers for the examination of applicants for public librarians' certificates and to pass upon the examination papers and credentials submitted. The committee shall consist of seven persons and a secretary, who shall be a member of the department, but such secretary shall not be a voting member of the committee. One member shall be appointed upon nomination by the president of the Civil Service Commission, such latter appointee to serve during the pleasure of the president of the Civil Service Commission. The term of members appointed hereafter shall be five years beginning with the first day of March next following the ending of the term to which each, respectively, is to succeed, except that the members appointed to fill the

vacancies created by the increase of the number of members of the committee from five to seven shall be appointed for one and two years, respectively, the length of such terms to be designated by the commissioner at the time of appointment, and except that an appointment to fill a vacancy created otherwise than by the expiration of a term shall be for the unexpired term. The members of the committee shall receive from the State their necessary expenses incurred in attending committee meetings, and the members of the committee other than the secretary and other State representatives receive a per diem stipend.

CHAPTER II

REGULATIONS OF THE COMMISSIONER
SUBCHAPTER D
LIBRARIES PART 90
PUBLIC AND FREE ASSOCIATION LIBRARIES

Section 90.1 REGISTRATION OF LIBRARIES. The Division of Library Development shall determine, by inspection and from the reports of public, free association and Indian libraries, whether the requirements of the Regents and of the commissioner for registration of libraries are met. If any library is shown to be operating a service that fails to meet such requirements, registration shall be suspended until they are met, or may be rescinded, and no State or local grants shall be paid for its support.

90.2 STANDARDS FOR REGISTRATION OF PUBLIC, FREE ASSOCIATION AND INDIAN LIBRARIES. A public, free association or Indian library will be registered if it meets standards satisfactory to the commissioner in regard to:

(a) Book collection;

(b) Income;

(c) Librarians and minimum hours. The library, in charge of a competent staff, must be opened at fixed times as follows:

Population	*Minimum Weekly Standard Hours*
Below 500	6
55 – 2,499	12
2,500 – 4,999	18
5,000 – 24,999	30
25,000 – 99,999	45
100,000 plus	60

(d) Financial report;

(e) Library records;

(f) Classification and arrangement; and

(g) Building and equipment.

90.3 APPROVAL OF PUBLIC LIBRARY SYSTEMS. As used in this Part, a public library system means: a library established by one or more counties, a group of libraries serving an area including one or more counties in whole or in part, a library of a city containing one or more counties, or a cooperative library system established pursuant to the provisions of section 255 of the Education Law. A public library system may be approved for State aid under sections 272 and 273 of the Education Law if it complies with the provisions of the aforementioned sections of the Education Law and if it meets the following regulations of the commissioner.

(a) Full approval shall not be given to a public library system unless it will serve at least 200,000 people or 4,000 square miles of area. Provisional approval may be given to a public library system which will serve at least 50,000 persons, provided the area includes three or more political subdivisions, and provided further that a satisfactory plan is submitted for expansion of service during the ensuing five-year period.

(b) (1) In order to qualify for full approval, a plan submitted by a public library system shall provide for the free direct use, by all residents of the area served, of the total library resources within the system by acceptance by all libraries in the system of a borrower's card issued by the system or by any library in the system, to be honored on the same basis as that specified for cardholders in each individual library. No such resident shall be excluded from free direct use because of age.

(2) Subject to the approval of the commissioner, and under the following conditions, the plan of service of a public library system may be amended to modify unrestricted free direct use as defined in paragraph (1) of this subdivision.

(i) Registered member libraries shall not be required to provide free direct access to their materials and services to residents of a jurisdiction of 10,000 population or more which has not exercised the authority contained in section 255 of the Education Law, or other pertinent legislative act, to establish and maintain a public library, or which is not contracting for public library service in accordance with section 256 of the Education Law.

(ii) Loan of specific materials to persons living outside the chartered service area of a member library may be restricted if, in the judgment of the commissioner, failure to do so would result in serious inequities and hardships to resident borrowers of member libraries. Restrictions upon the loan of specific materials shall be limited to nonprint materials and equipment, and printed materials less

than one year old, including fiction and nonfiction books and periodicals. Such materials must have been purchased from local funds. When attendance at local library programs must be limited, local residents may be given first access to them.

(iii) Procedures for dealing with delinquent borrowers including restrictions upon their borrowing privileges, may be stipulated.

(3) Provisional approval may be granted, provided that each member library of the system shall have the right to borrow for one or more of its cardholders from any other member library of the public library system any book or other material on the same basis as that provided by the lending member library applicable to its resident cardholder.

(4) The provisional approval of a public library system may be extended by the commissioner for a period of not more than three years after the expiration of the original five-year period, upon satisfactory proof that immediate full compliance with paragraph (1) of this subdivision would result in specific extreme hardship to such system or its participating libraries and upon the condition that such public library system submit to the commissioner, prior to such extension, a satisfactory plan for compliance with paragraph (1) of this subdivision within the period of such extension. As a further condition of such extension, the commissioner may require a demonstration by the public library system of free access to a portion of the population served by such system. Each such library system shall annually submit a report of progress toward full compliance with paragraph (1) of this subdivision.

(c) Each system shall submit a plan which shall include a description of the means by which the various economic, cultural, civic and age groups will be assisted by qualified personnel in deriving maximum benefit from library resources.

(d) Each system shall certify that there will be employed within the library system at least one full-time staff member (or the equivalent) for each 5,000 residents of the area served by the system, exclusive of janitorial, cleaning and maintenance workers. There shall also be employed by each approved system of libraries a director who holds or is eligible to receive a public librarian's professional certificate and who has eight or more full years of professional library experience in libraries or systems of libraries of recognized standing satisfactory to the commissioner, at least two years of which shall have been in an administrative capacity. In addition to such director, each approved system shall employ at least three full-time (or the equivalent) certified public librarians who shall be engaged solely in services which are administered by the system, exclusive of librarians employed in technical processing or in federally funded positions.

(e) (1) For full approval, each system shall add annually at least 4,000 titles not previously held by the system.

(2) For provisional approval each system shall add annually at least 2,000 titles not previously held by the system.

(f) Each system shall provide a means of location of materials added in the libraries of the system.

(g) (1) Each system shall prepare annually a budget (statement of receipts and appropriations) on forms prescribed by the Commissioner of Education, and file such budget with the department within 60 days after the beginning of the calendar year.

(2) Whenever the apportionment of State aid to any system shall be increased, the system shall file with the department an amended budget showing how such increase will be used for the improvement of library services.

(h) The plan of service of each public library system shall be revised periodically on a schedule to be determined by the commissioner.

(i) The plan of each public library system shall provide for coordination of the reference and interlibrary loan programs and functions of the public library system with the approved plan of the reference and research library system of which it is a member. Each proposed revision of such plan shall be accompanied by a statement that the proposed revision has been transmitted to the board of trustees of the reference and research library system of which the public library system is a member, prior to its submission to the commissioner.

(j) Coordinated outreach services. (1) Definitions. As used in this subdivision:

(i) Solely for the purposes of Education Law section 273 (1)(h), coordinated outreach services shall mean a planned and integrated program of library services designed to identify, contact, and serve persons who are educationally disadvantaged, members of ethnic or minority groups in need of special library services, unemployed and in need of job placement assistance, living in areas underserved by a library, blind, physically handicapped, aged or confined in institutions.

(ii) Institutions shall mean correctional facilities, hospitals, youth facilities, nursing homes, developmental centers, psychiatric centers and extended care centers.

(2) Eligibility criteria. In order to be eligible for State aid for coordinated outreach services pursuant to the provisions of paragraph h of subdivision 1 of sec-

tion 273 of the Education Law, a public library system shall:

(i) Be operating under a plan of service which has been approved pursuant to section 272 of the Education Law;

(ii) Amend its plan of service, subject to approval by the commissioner, to show how coordinated outreach services to persons who are educationally disadvantaged, members of ethnic or minority groups in need of special library services, unemployed and in need of job placement assistance, living in areas underserved by a library, blind, physically handicapped, aged or confined in institutions will be developed and implemented throughout the public library system service area. Such amendment shall include, but not be limited to:

(a) Identification of special populations to be served including persons who are educationally disadvantaged, members of minority groups in need of special library services, unemployed and in need of job placement assistance, living in areas underserved by a library, blind, physically handicapped, aged or confined in institutions;

(b) Identification of special needs of such populations;

(c) A description of proposed additional or adapted services to meet the identified special needs;

(d) A description of methods for coordination of expenditures and services in programs supported by coordinated outreach services funds provided under Education Law, section 273 (1)(h), State funds provided for services to local correctional institutions, other public library system funding and as appropriate, local funds;

(e) A description of cooperative efforts with representatives from Federal, State and local institutions;

(f) A description of expanded programming, use and maintenance of an optical scanner for use by the blind and physically handicapped in accordance with Laws of 1979, ch. 660; or

(g) A description of system efforts to implement section 504 of the Rehabilitation Act of 1973;

(iii) Certify that there will be employed within the library system at least one full-time certified professional librarian with expertise in outreach services who shall administer the coordinated outreach program and assist persons who are educationally disadvantaged, members of minority groups in need of special library services, unemployed and in need of job placement assistance, living in areas underserved by a library, blind, physically handicapped, aged or institutionalized in deriving maximum benefit from library resources;

(iv) Appoint an advisory council of not less than five nor more than eleven members, which shall be composed of persons who are educationally disadvantaged, members of ethnic or minority groups in need of special library services, unemployed and in need of job placement assistance, living in areas underserved by a library, blind, physically handicapped, aged or institutionalized, representatives of agencies serving such individuals within the system's service area and one director of a member library. Council members shall serve three year terms, provided that the first members of each council shall be appointed for terms of from one to three years so that, as nearly as possible, one third of the members of the council shall thereafter be appointed each year. The council shall meet at least twice each year, shall advise the public library system and assist in the evaluation of activities in the coordinated outreach program; and

(v) Submit to the department, in a form prescribed by the department, an annual application and project description of its coordinated outreach services program, including budget information, prior year expenditure information, and narrative program information.

90.4 STANDARDS FOR CENTRAL LIBRARIES. Each public library system applying for State aid pursuant to the provisions of paragraph b of subdivision 1 of section 273 of the Education Law shall have a plan for the further development of its central library approved by the commissioner. Such plan shall comply with the following:

(a) For the purposes of eligibility for State aid, pursuant to the provisions of subparagraph (1) of paragraph b of subdivision 1 of section 273 of the Education Law, the central library shall be the library so designated in the plan of organization and service of each public library system. If two co-central libraries are specified in the plan, the library with the greatest number of adult nonfiction volumes shall be deemed to be the central library. A public library system shall be eligible to receive such grants prior to January 1, 1975 if its central library meets the following criteria:

(1) The local expenditure for the support of the central library, from other than State and Federal funds, is not less than two dollars per capita, excluding capital expenditures, based upon the population of the central library's service area. When the entire public support of the central library is derived from the entire system service area, the per capita expenditure of

the entire system service area will be used in determining this grant. If the public library system receives support from other than State or Federal funds, the ratio between local and total income may be used to determine the percentage of system grants to the central library deriving entirely from other than State or Federal funds may be counted in their entirety. After January 1, 1975, the local expenditures for the support of the central library required to qualify for this grant shall be three dollars per capita, excluding capital expenditures, for the preceding calendar year.

(2) The central library shall provide an annual average of not less than 55 hours per week of service to the public, and not less than the number of hours in each week required under section 90.2 of this Part.

(3) There shall be provision in the central library for at least two full-time professional positions, financed from other than Federal funds, excluding budgeted positions vacant for more than 24 months.

(b) In such years as are designated in a schedule to be established by the commissioner, the board of trustees of the public library system shall file with the commissioner a 10-year plan of central library development, prepared by the board of trustees of the central library, after consultation with the board of trustees of the library system, which meets systemwide needs. Such plan shall be based upon recognized standards of library service, and shall state, among other things:

(1) The optimum size of the library's collection needed to meet systemwide needs.

(2) Other special collections and information resources within the system service area to which the public has access by courtesy or by contract.

(3) The number of professional and nonprofessional staff needed to provide service to readers.

(4) The amount of space and number of reader seats needed to provide this service.

(5) A statement by the board of trustees of the public library system on the adequacy of the proposed central library development plan to meet systemwide needs is required to be filed with the plan.

(c) The board of trustees of each public library system applying for State aid, pursuant to the provisions of subparagraph (1) of paragraph b of subdivision 1 of section 273 of the Education Law, shall annually submit to the Division of Library Development, as a condition to receiving further aid under this program, a report, prepared by the board of trustees of the central library, on steps taken to achieve the objectives of this plan.

(d) Each public library system applying for State aid pursuant to the provisions of subparagraph (2) of paragraph b of subdivision 1 of section 273 of the Education Law shall submit to the commissioner an acquisition plan. Such plan shall comply with the following:

(1) Library materials to be acquired with this aid shall be located in the central library as designated in the plan of organization and service of the system. If two co-central libraries are designated in such plan, the system shall indicate the proportion of aid to be assigned to each. If, after approval of this acquisition plan, the system shall determine to change the location of materials acquired under this program, the system shall secure the commissioner's approval of the amendment of its plan of organization and service and shall amend its statement under this paragraph.

(2) The central library collection of adult nonfiction shall be physically assembled so as to provide maximum use of the collection by residents of the area served by the system.

(3) If the system provides that the central library collection is to be housed in two co-central libraries, the system shall:

(i) show that such separation of the central collection will not weaken the scope of the collection or the quality of the reference and informational service available to readers through such collections and

(ii) provide that there shall be a unified means of location of the total adult nonfiction holdings of the two libraries in which the central library collection is housed.

(4) The central library or co-central libraries of the system shall provide information service and bibliographical assistance to residents of the system service area.

(5) The material acquired under such plan by the system shall be adult nonfiction or foreign language materials, in print-form or microform.

(e) The system shall annually certify to the Division of Library Development that the amount of State aid received pursuant to the provisions of subparagraph (2) of paragraph b of subdivision 1 of section 273 of the Education Law in the preceding calendar year was expended for library materials located in the central or co-central libraries. Such statement shall be endorsed by the board of trustees of the library or libraries receiving the material.

90.5 REFERENCE AND RESEARCH LIBRARY RESOURCES SYSTEMS.

(a) Governance. (1) The trustees shall employ a full-time director who is a trained professional librarian and who has had at least eight full years of professional library experience, at least two years of which shall have

been in an administrative capacity, or equivalent experience as determined by the commissioner, and who holds, or is eligible for, certification under section 90.7 of this Part.

(2) Prior to commencement of his duties, the treasurer of a reference and research library resources system, appointed pursuant to paragraph (1) of subdivision (c) of section 90.6 of this Part, shall execute and file with the trustees an official undertaking in such sum as the board shall direct and approve.

(b) Membership. (1) Criteria.

(i) By December 31, 1980, each reference and research library resources system shall file with the commissioner for his approval, as an amendment to its plan of service, its minimum criteria for membership.

(ii) Each reference and research library resources system shall file with the commissioner for his approval, as an amendment to its plan of service, each new application for membership in the reference and research library resources system.

(iii) Each reference and research library resources system petitioning the commissioner for approval of a plan of service amendment to add a new member shall demonstrate how such new member will improve the library resources presently available to the research community in the area of the system and/or will bring improved reference and research services to the users of such new member.

(iv) Each reference and research library resources system shall include all public library systems which provide service within the area served by the system and which have applied for membership.

(v) Each reference and research library resources system may also include public, free association, and Indian libraries, libraries of educational agencies, libraries of nonprofit organizations, and other special libraries that provide service within the area served by the system, provided they meet the criteria for membership as contained in an amendment to the system plan of service approved by the commissioner pursuant to subparagraph (i) of this paragraph except that no public, free association or Indian library which is not a member of a public library system shall be eligible for membership in a reference and research library resources system.

(vi) Provisional approval of any new member of a reference and research library resources system may be given during the period December 31, 1980 to December 31, 1982, subject to review and redetermination after December 31, 1982.

(2) Voting. Each member institution of a reference and research library resources system shall have one vote in the election of each trustee at the annual meeting, and each member institution shall designate an official representative who shall have the authority to cast the member institution's vote.

(c) *Plan of service.* (1) Each reference and research library resources system shall submit for approval by the commissioner a plan of service in a form to be prescribed by him. Such plan shall be revised periodically as determined by the commissioner.

(2) In addition to the information required by paragraph d of subdivision 2 of section 272 of the Education Law, the plan shall include, but need not be limited to:

(i) a description of regional resources, including their variety in format and subject matter;

(ii) a description of programs to meet needs in services, materials and facilities;

(iii) a description of the system's efforts to fully use local responsibility, initiative and support of library services, and the manner in which State aid will assist their stimulation but not be used as their substitute;

(iv) an assurance that public funds will be utilized economically and efficiently;

(v) the means by which the system will assure compatability of its computerized and other technical operations with those of other library systems in the State and the New York State Library;

(vi) the identification of special client groups, their needs, and the means for meeting these needs;

(vii) a description of the means for locating library materials within the system area and the procedures for accepting, verifying and responding to loan requests, including delivery;

(viii) an indication that the plan is compatible with the approved plans of service of other library systems in the region, as demonstrated by evidence of appropriate consultation with public library systems, school library systems and the regional intersystem cooperative network; and

(ix) evidence that service programs are compatible with the Regional Medical Library Network or other special library networks which also serve member libraries.

(3) Any contract relating to library services into which the system enters with its member libraries, other library systems, consortia or networks shall be considered an amendment to the plan of service, and shall be subject to the prior approval of the commissioner.

(d) *Reports.* No later than September first, each reference and research library resources system shall trans-

mit to the department, on forms prescribed by the commissioner, an annual report for the 12-month period ending the previous June 30th.

90.6 FINANCIAL ACCOUNTING IN COOPERATIVE LIBRARY SYSTEMS AND REFERENCE AND RESEARCH LIBRARY RESOURCES SYSTEMS. The following accounting procedures shall be employed by cooperative library systems and reference and research library resources systems.

(a) The fiscal year of each library system shall begin with the first day of January and end with the 31st day of December or, at the option of the library system, shall begin with the first day of July and end with the 30th day of June.

(b) No trustee, officer or employee of the system shall be interested directly or indirectly in any claim against or contract with the system for lawful compensation and expenses. However, a trustee who is not the treasurer may be a stockholder, officer or director of a bank designated as depository for the system.

(c) The board of trustees of every library system shall:

(1) appoint two separate accounting officers: a financial clerk and a treasurer who shall hold office at the pleasure of the board. The secretary of the library system board or the library system director may be appointed the financial clerk. In the event that either of these officers becomes temporarily incapacitated, the board may appoint one of its members to serve temporarily in either of these positions;

(2) provide a satisfactory minute book for recording the minutes of the meetings of the board of trustees and the proceedings of the annual meeting of the participating libraries. In this minute book the secretary shall record the action of the board on all bills approved for payment or shall refer to a schedule of such bills by date, schedule number and amount approved. This schedule shall be filed as a public record;

(3) provide the financial clerk with a distribution ledger in which he shall record itemized receipts and itemized payments; which shall be classified in each case as is required for the annual financial report;

(4) provide the treasurer with a cashbook in which he shall enter an itemized record of all receipts and payments;

(5) adopt a prenumbered receipt form printed in triplicate, and require the treasurer to acknowledge the receipt of any library funds paid over to his custody by issuing his receipt as follows: a copy to the payer, a copy to the financial clerk and a copy to be retained by the treasurer;

(6) adopt a prenumbered voucher-check and require the use of this form in paying all system obligations except as otherwise provided in paragraph (18) of this subdivision. This form must provide for the signature of the treasurer and may provide for as many additional signatures as the board may require;

(7) adopt, at least 30 days prior to the start of the ensuing fiscal year, an estimate of receipts and appropriations (annual budget) on forms prescribed by the commissioner of education, and file such budget with the department within 60 days thereafter;

(8) amend the budget at any time during the fiscal year and provide for appropriations from any additional revenues received;

(9) keep the incurred obligations in each fiscal year within the amounts authorized by the budget and amendments thereto;

(10) settle all accounts of the library system on or before the last day of the fiscal year;

(11) disburse library funds only on the basis of itemized vouchers which have been certified by the claimants or the purchasing agent and audited and approved by the board of trustees except as otherwise provided in paragraph (18) of this subdivision. However, the board of trustees may by resolution determine that vouchers may be audited and approved by a committee comprised of at least three board members or by an individual designated by the board as auditor. Any individual so designated may not hold the office of financial clerk or treasurer and shall be bonded with such penalty and sureties as the board may require;

(12) provide by resolution that amounts due upon contracts, for fixed salaries or for compensation of employees regularly engaged at agreed periodic rates, may be paid without prior audit upon submission to the treasurer of a voucher or payroll duly certified by the library system director or his duly authorized representative;

(13) establish rules and regulations governing the reimbursement of trustees, officers and employees of the system and its member libraries for actual and necessary expenses incurred in the performance of official duties assigned by the trustees of the library system or in attending meetings designated by the library system board of trustees. In lieu of actual and necessary travel expenses, the trustees may establish a mileage rate for the use of personally owned automobiles;

(14) require the treasurer to render monthly reports, showing the following information for the guidance of the board: balance on hand at the beginning of the month; itemized list of receipts during the month; total withdrawals made from the bank account during

the month; balance on hand at the end of the month and reconciliation with the bank statement;

(15) require a monthly report from the financial clerk showing amounts of receipts by source and expenditures by budget category for the months and year to date;

(16) cause an annual audit of the treasurer's records to be made either by a committee of the board or by an independent auditor;

(17) provide adequate filing equipment for the preservation and systematic arrangement of all paid and unpaid bills, cancelled checks, bank statements, debit charge slips, contracts and other financial records;

(18) at its discretion, establish a petty cash fund for the purpose of making payment in advance of authorization of properly itemized bills for materials, supplies or services furnished to the library system calling for immediate payment on delivery.

(i) Whenever a petty cash fund is established, the board shall designate the director or the financial clerk of the system to administer and be responsible for such fund. No such fund shall exceed $50 at any one time.

(ii) The person in charge of such petty cash fund shall keep such records as may be necessary for the accurate accounting of all transactions and shall make reports to the board of trustees as required by such board.

(iii) From time to time checks may be drawn to the person designated to administer the petty cash fund in an amount which shall not exceed payments made in cash as indicated by receipts, receipted bills or other evidence of payment in form available to audit.

(iv) The petty cash fund shall be completely closed out at the end of each year and the general fund reimbursed by the original amount transferred to the petty cash fund.

(19) The treasurer shall deposit all moneys within five days after receipt in a depository designated by the trustees. The trustees may authorize the treasurer to deposit or invest moneys not required for immediate disbursement in special time deposit accounts or certificates of deposit issued by a bank or trust company located and authorized to do business in this State, provided that such account or certificate of deposit shall be payable within the time the moneys shall be needed, and provided further that such account or certificate of deposit shall be secured by a pledge of obligations of the United States of America or obligations of the State of New York. Investments may also be made in obligations of the United States of America or of the State of New York, registered or inscribed, when possible, in the name of the system, and payable or redeemable at the option of the system within such time as the proceeds shall be needed, but in any event not later than the end of the fiscal year. Such obligations shall be purchased through, delivered to and held in the custody of a bank or banker designated by the trustees for the deposit of system moneys.

(d) The trustees of each library system shall file with the State Education Department, on forms provided by it, a financial report of the preceding fiscal year within 60 days of the close of such fiscal year.

90.7 CERTIFICATES FOR LIBRARIANS IN REGISTERED PUBLIC, FREE ASSOCIATION AND INDIAN LIBRARIES.

(a) *Professional certificates.* Public librarian's professional certificates shall be granted to those who pay the statutory fee of five dollars and:

(1) have submitted evidence that they hold a graduate library degree from a library school located within New York State which is registered by the State Education Department, or from a library school which is accredited by the American Library Association; or

(2) have furnished satisfactory evidence by documents, or by interview with the public librarian's certification committee, as the committee may direct, that they:

(i) have completed four full years of study in an approved college or university culminating in a bachelor's degree or its equivalent as determined by the commissioner; and

(ii) have completed one full year's education in an approved library school culminating in an appropriate degree or credential, or equivalent education; and

(iii) are or have been, for a period of at least three years, not including time spent in the position for which they are seeking certification, in the practice of professional librarianship in a position or positions which, in the judgment of the committee, involve the supervision of library personnel or considerable administrative responsibility requiring independent judgment and decision at the highest level or a high degree of specialization and professional expertise; or

(3) hold a public librarian's provisional certificate in full force and effect in New York State on January 1, 1977, or, on January 1, 1977, are employed under excuse of default, granted by the commissioner to a library board employing the candidate as a librarian not properly certified; and

(i) within six years of the date of issue of such provisional certificate or granting of such excuse of default, have submitted evidence that they possess educational qualifications meeting the requirements of subparagraphs (i) and (ii) of paragraph (2) of this subdivision; and

(ii) if the requirements of paragraph (1) of subdivision (a) of this section are not met, have passed the required examination covering basic professional library knowledge and practical application of professional principles prior to December 31, 1982, or (4) hold a conditional certificate; and

(i) have completed at least six graduate credits in library science from a library school which has been accredited by the American Library Association or registered by the department, and two years of satisfactory professional experience in a public library located within the United States and acceptable to the department; or

(ii) have passed the required examination covering basic professional library knowledge and practical application of professional principles prior to December 31, 1982.

(b) *Conditional certificate.* (1) A holder of a librarian's certificate or license evincing the completion of professional training and college education in a degree course or courses of no less than five years of postsecondary study, issued by an agency located outside of the United States and approved by the department, may apply for a conditional certificate. The applicant shall submit full documentation of all postsecondary study, of degrees or credentials awarded therefor, and of the librarian's certificate or license to be evaluated. If, upon review of such documentation, the department determines that the applicant's preparation is equivalent to requirements for a professional librarian degree from a library school which is registered by the State Education Department or which is accredited by the American Library Association, a conditional certificate may be issued for a period of two years. Such conditional certificate shall be valid for appointment to a beginning level professional position. The conditional certificate may be reissued at any future date for another two-year period upon presentation of evidence that the holder has completed, within the preceding two years, at least three graduate credits in library science from a library school accredited by the American Library Association or registered by the department, or six months of satisfactory professional experience in a public library located within the United States and acceptable to the department.

(2) The applicant shall pay a fee of $5 for the evaluation of credentials pursuant to this subdivision and the issuance of a conditional certificate.

(c) *Exchange of certificates.* Holders of the (1) librarian's graduate library school life certificate, or (2) librarian's professional life certificate shall receive the public librarian's professional certificate upon application.

90.8 APPOINTMENT OF LIBRARY PERSONNEL.

(a) Each registered public, free association or Indian library shall appoint library personnel on or after May 19, 1975, in accordance with the following provisions:

(1) A library which is a member of a public library system and serves a population of 2,500 to 4,999 shall employ as director a person who has completed not less than two academic years of full-time study in an approved college or university, or the equivalent as determined by the commissioner.

(2) A library which is a member of a public library system and serves a population of 5,000 to 7,499 shall employ as director a person who holds a bachelor's degree granted by an approved college or university upon the completion of four academic years of full-time study, or its equivalent as determined by the commissioner.

(3) A library which is a member of a public library system and serves a population of 7,500 or more shall employ as director only persons who hold the public librarian's professional or provisional certificate or a certificate of qualification. The library shall employ in all other professional librarian positions only persons who hold the public librarian's professional or provisional certificate, a certificate of qualification or a conditional certificate.

(4) A library which is not a member of a public library system and serves a population of 2,500 to 4,999 shall employ as director a person who holds a bachelor's degree granted by an approved college or university upon completion of four academic years of full-time study, or its equivalent as determined by the commissioner.

(5) A library which is not a member of a public library system and serves a population of 5,000 or more shall employ as director and in all other professional librarian positions only persons who hold the public librarian's professional or provisional certificate or a certificate of qualification. The library shall employ in all other professional librarian positions only persons who hold the public librarian's professional positions or provisional certificate, a certificate of qualification or a conditional certificate.

(b) If a registered public, free association or Indian library which employs at least the equivalent of 25 full-time persons who hold the public librarian's professional or provisional certificate, a certificate of qualification, or a conditional certificate shall find it impossible to ap-

point a holder of such certificate for a professional librarian position, other than director, requiring unusual background or education in a specialized subject field, the library board may submit to the commissioner a statement of the facts involved and request that the position be exempt from the provisions of subdivision (a) of this section. The commissioner, in his discretion, may grant an exemption for such appointment.

(c) Failure by the trustees of any registered library to meet these requirements or observe these regulations shall be deemed a valid reason for the rescinding or suspension of registration.

(d) To provide for uniformity and greater mobility from one position to a similar position in another system, the Library Extension Division shall, from time to time, set up uniform titles and requirements for comparable library positions.

(e) The commissioner may in his discretion excuse the default of a library board in employing a staff member not meeting the requirements of paragraphs (1)-(5) of subdivision (a) of this section and legalize the time so served.

90.9 EXAMINATIONS FOR PUBLIC LIBRARIAN'S PROFESSIONAL CERTIFICATION.

(a) *General requirements.* (1) *Application.* An application to an examination for a public librarian's professional certificate shall be filed with the department. If the department finds that the application is complete and that all requirements for the specific examination have been met, it shall issue to the applicant an admission card which shall advise him of the time, date and place of the examination and shall admit him thereto. At the conclusion of the examination he shall return the admission card to the department representative conducting the examination.

(2) *Conduct of the examinations.* Examinations for public librarian's professional certificates shall be conducted in accordance with the following rules and any candidate violating such rules may be dismissed from the examination room by the department representative or otherwise disciplined.

(i) No candidate shall enter the examination more than 45 minutes after the question papers have been distributed nor shall any candidate leave the examination until 45 minutes have elapsed.

(ii) During the examination no candidate shall communicate with any other candidate in any way except upon the express permission of the department representative.

(iii) A candidate shall not bring books or help of any kind into the examination room unless directed to do so by the department because of the character of the examination.

(iv) After handing in his last paper in any examination each candidate shall make and subscribe to an affidavit to the effect that he has violated none of the rules.

(3) *Rating and report.* Upon the conclusion of each written examination, the papers shall be sent to the proper examiner or examiners who shall rate them immediately. Upon the conclusion of the rating, he or they shall prepare a duplicate report thereon. For written or practical examinations, the examiner or examiners shall file one copy of the report with the secretary of the examination committee and the other copy with the department. The department shall then notify each candidate of his success or failure and advise him, if he has failed, when and on what basis he may be reexamined.

(4) *Passing mark.* The passing mark in all examinations, both written and practical, shall be an average of 75 percent. However, where the examination is the objective type, the passing mark shall be 75 on a scale of 100. On this scale 100 shall represent the best performance possible. The passing point of 75 need not be an arithmetic percentage but may be set by the examination committee at a predetermined mark which, in the judgment of the examination committee, meets the minimum requirements for certification.

(b) *Special requirements.* (1) The examinations shall be held at least once each year at times and places determined by the commissioner. Applications shall be filed with the department not less than 15 days before the examination. The subjects covered in the examinations, and when the examinations may be taken, shall be determined by the examination committee.

(2) A candidate who fails the examination shall be eligible for reexamination at any other subsequent examination.

(3) Each application must be verified by oath. It must show, in a manner satisfactory to the department, that the applicant:

(i) has completed the preliminary education requirements;

(ii) has completed the professional education requirements.

90.10 LOCAL LIBRARY INCENTIVE AID. A public library system may be approved for State aid, pursuant to the provisions of paragraph f of subdivision 1 of section 273 of the Education Law, provided that it meets the criteria for eligibility set forth in such paragraph of the Education Law and this section, and submits an application on a form prescribed by the department. For

the purpose of determining the entitlement of a public library system and its member public and free association libraries for such aid, the following provisions shall apply:

(a) *Library systems.* (1) A public library system operating under a plan of service which has been approved pursuant to section 272 of the Education Law shall be an eligible applicant for local library incentive aid.

(2) No component library system or member library included in the approved plan of service of a public library system may apply independently for local library incentive aid.

(b) *Public and free association libraries.* To share in local library incentive aid, a library shall have been chartered by the Regents or incorporated under a general or special act of the Legislature, be registered by the department, and be included in the membership of a public library system, as recorded in the system's plan of service which has been approved pursuant to section 272 of the Education Law.

(c) *Disbursement plan.* (1) Each public library system having member libraries shall amend its plan of service, subject to approval by the commissioner, to show how local library incentive aid will be apportioned, both for systemwide services and among member public and free association libraries under the terms of clauses (i) and (ii) of subparagraph (1) of paragraph f of subdivision 1 of section 273 of the Education Law. Such amendment of plan shall be accompanied by a statement of agreement to such amendment, signed by the president of the public library system board of trustees and the presidents of the boards of trustees of a majority of the member libraries, and shall remain in effect until further amended. Each amended plan of service shall guarantee transfer of that portion of local library incentive aid apportioned to member libraries within 30 days of the receipt of such local library incentive aid at the public library system headquarters.

(2) Each public library system having only branch libraries without separate boards of trustees shall amend its plan of service, subject to approval by the commissioner, to show how local library incentive aid will be used for library services throughout the system.

(d) *Local sponsor support.* The annual reports of a public library system and its member public and free association libraries filed pursuant to section 263 of the Education Law shall be the basis for determining the sum total of local sponsor support for the system headquarters plus its member public and free association libraries. The annual report of a public library system not having member libraries, filed pursuant to section 263 of the Education Law, shall be the sole basis for determining the sum total of local sponsor support for such system.

90.12 STATE AID FOR LIBRARY CONSTRUCTION. (a) *Definitions.* As used in this section and in Education Law section 273-a:

(1) Library means public, free association and Indian libraries, as defined in section 253 of the Education Law, which are members of public library systems.

(2) Library system means a public library system as defined in subdivision 1 of section 272 of the Education Law.

(3) Library construction means:

(i) the construction or acquisition of a building for library purposes including construction of a building for library purposes pursuant to a lease-purchase agreement or

(ii) the renovation or rehabilitation of a building already owned by a library; or

(iii) renovation or rehabilitation of a building to be leased for library purposes, including renovation or rehabilitation of a building for library purposes pursuant to a lease-purchase agreement.

(4) Acquisition means the purchase of a site and an existing building suitable for conversion to library purposes.

(5) Renovation means the overall improvement or conversion of an existing building resulting in increased operational efficiency and economy.

(6) Rehabilitation means the restoration of an existing library building, exclusive of routine maintenance, with particular emphasis on energy conservation, accommodation for computer equipment, or access by physically handicapped persons.

(b) *Application procedures.* (1) Each library system shall submit to the commissioner, no later than a prescribed date, a plan by which it will accept, review, and make recommendations on applications as required by Education Law section 273-a(2). Such plans shall include a schedule of such actions, local funds matching requirements, planning and technical requirements, and procedures to be followed.

(2) When the applicant is a library, the governing board of the system of which it is a member shall indicate to the commissioner its approval of such application by stating the extent to which the project for which State aid is requested will assist the applicant to provide more effective service within the system's standards of organization and service. If the governing board of the system does not approve a member library's application, such application shall be sub-

mitted to the commissioner with an explanation of such nonapproval.

(3) When the applicant is a library system board, the application shall describe how the State-aided project will improve system services to member libraries and users.

(4) The library system board shall rank the applications from its system area in order of its recommendations, giving particular attention to the service needs of any communities which are isolated or located beyond the reasonable service capabilities of other libraries which are members of such library system.

(c) *Content of applications.* Each application shall assure that:

(1) when the construction project is completed, adequate operating support and resources will be available to sustain an improved level of service as reflected by the schedule of library open hours, the number of professional and non-professional staff needed to provide such service, and the upgrading of the inventory of all types of library materials.

(2) the non-State share of the cost of the project is or will be available, that the project has been started or will begin within 90 days after approval by the commissioner, and that the project will be completed promptly and in accordance with the application;

(3) the approved project will be conducted in accordance with all applicable Federal, State, and local laws and regulations;

(4) not more than sixty percent of the approved costs have been expended as of the date of the application;

(5) for all new projects or where otherwise required by law, competitive bidding procedures will be followed;

(6) the premises constructed, acquired, renovated, rehabilitated or leased will be usable for library purposes for at least twenty years from completion of the project.

(d) *Criteria for approval of an application.* Approval of construction project applications will be based in part upon the degree to which each project will result in:

(1) more effective library service to the library's service area as evidenced by new library programs and user accommodations resulting from the increased and improved building space and capacity;

(2) more efficient utilization of the library building resulting in such economies as increased energy conservation and increased staff efficiency;

(3) improved access to and use of building services by all library users, including physically handicapped persons;

(4) the provision of library services in communities which are geographically isolated; and

(5) the satisfaction of such other criteria as the commissioner may deem appropriate.

(e) *Costs.* Pursuant to Education Law section 273-a: (1) costs eligible for approval shall include:

(i) construction or acquisition or a library building;

(ii) renovation or rehabilitation of a library building;

(iii) renovation or rehabilitation of leased property;

(iv) purchase and installation of initial equipment and furnishings;

(v) site grading;

(vi) supervision of the construction, renovation, or rehabilitation; and

(vii) such other costs as may be approved by the commissioner.

(2) costs ineligible for approval shall include but shall not be limited to:

(i) architectural and engineering plans;

(ii) building consultant studies;

(iii) interest or carrying charges on bonds financing the project;

(iv) purchase of books and other library materials; and

(v) landscaping.

(f) *Schedule of payment of State aid for library construction.* (1) 50 percent payment of awarded State aid for approved costs of the project will be made after notification of applicant by the commissioner of approval for funding.

(2) An additional 40 percent payment will be made after certification by the applicant that the project has been 50 percent completed in accordance with the approved application.

(3) The 10 percent final payment will be made after submission of satisfactory evidence that the project has been completed according to the approved application and has been accepted by the applicant.

(g) *Reports.* The following reports shall be made to the commissioner on the forms and by the dates prescribed by the commissioner.

(1) Each recipient of State aid pursuant to Education Law section 273-a shall report on the status of the approved project including a final cost report.

(2) Each library system board shall report on the status of any project for which an approved application

was submitted to the commissioner but for which no State aid was provided.

(3) Each library system board shall report on the status of each project submitted to the commissioner for which the system did not recommend approval.

(4) Each library system board shall report on the anticipated State aid necessary for eligible projects to be completed in its service area.

90.13 AID TO INDIAN LIBRARIES. An Indian library or tribal government may be approved for State aid pursuant to section 271 of the Education Law, provided that it meets the criteria for eligibility set forth in section 253 of the Education Law and this section, and submits an application on a form prescribed by the department. For the purpose of determining the entitlement of the library for such aid, the following provisions shall apply:

(a) *Service area.* The service area of an Indian library or tribal government shall be that specified in section 253 of the Education Law.

(b) *Population base.* The population of the area of service of an Indian library or tribal government, for the purpose of State aid, shall consist of persons residing on the reservation served by the Indian library or by contract as shown by the latest Federal Census or certified by the New York State Director of Indian Services or designee.

(c) *Acreage.* The acreage of the area served by the Indian library or contract shall be certified by the New York State Director of Indian Services or designee.

90.14 STATE AID FOR COOPERATION WITH CORRECTIONAL FACILITIES. (a) *Definitions.* As used in this section and in Education Law section 285:

(1) State correctional facility means an institution under the control of the Department of Correctional Services.

(2) Eligible State correctional facility library means a collection of informational materials located in space in the facility which is primarily devoted to library service for the general inmate population under the supervision of a librarian holding either a professional certificate or a conditional certificate as provided for in section 90.7 of this Part.

(3) Inmate population means the number of inmates of each participating State correctional facility named in a public library system's plan of service, as of July 1 of the year preceding the calendar year in which State aid to public library systems is to be paid, as certified by the Commissioner of Correctional Services.

(b) *Participation.* Each eligible State correctional facility library may elect to participate in the development of the cooperative plan of service with the public library system and other such facility libraries in the system area.

(c) *Plan of service.* A public library system operating under a plan of service which has been approved pursuant to section 272 of the Education Law which has one or more eligible correctional facility libraries within its area of service, and which is applying for State aid for cooperation with such library or libraries, shall file an amendment of its plan of service with the commissioner, setting forth a plan to make the library resources of such system available to meet the library needs of inmates within the facility or facilities located in the system's service area. Such amendment shall include, but not be limited to:

(1) the identification of the eligible State correctional facility libraries in the system area, and the reasons given by any such facility which elects not to participate;

(2) the identification of any State correctional facility or facilities within the system area lacking an eligible correctional facility library. A variance may be granted by the commissioner from the eligibility standards set forth in paragraph (2) of subdivision (a) of this section upon submission of a description of the services to be provided to ineligible facilities and of the benefits that the inmate population would derive;

(3) the identification of system personnel involved in negotiating the plan of service with participating correctional facility libraries and of the personnel responsible for implementation of such plan, including any consultant services to be provided;

(4) a description of how the public library system resources will be made available for the educational, cultural and recreational needs of the inmates, as determined from a user needs assessment;

(5) an agreement on procedures to recover or replace missing or damaged materials loaned to a participating facility library; and

(6) the evaluation procedures to be used to determine the effectiveness of the public library system in providing services to the correctional facilities libraries in its area.

(d) *Maximum apportionment.* Each public library system shall be eligible to receive an apportionment equal to the quotient, computed by two decimals without rounding, of the appropriation provided by law for the purposes of section 285 of the Education Law divided by the State total inmate population, but not more than $9.25, multiplied by the public library system inmate population.

(e) *Reports.* Each public library system receiving State aid for cooperation with State correctional facilities un-

der an approved plan for the sharing of library resources shall file with the commissioner such fiscal and evaluation reports as he may prescribe, in a form and by a date determined by him.

90.15 COORDINATED COLLECTION DEVELOPMENT AID. (a) *Eligibility.* A public or non-profit independent college or university located in New York State shall be eligible for aid pursuant to Education Law, section 273(5), provided that:

(1) the college or university:

(i) is a unit of the State University of New York or of the City University of New York, a community college established under article 126 of the Education Law, a nonprofit college or university incorporated by the Regents or by the Legislature, or a school of medicine, dentistry or osteopathy authorized by the Regents to confer the degree of doctor of medicine, doctor of medical science, doctor of dental surgery or doctor of osteopathy;

(ii) maintains one or more registered curricula leading to an earned degree; and

(iii) is eligible for State aid under the provisions of the Constitutions of the United States and the State of New York; and

(2) the library of the college or university at the time of application:

(i) is a member of a reference and research library resources system;

(ii) agrees to lend to other members of the reference and research library resources system any library materials which it ordinarily lends to its own faculty and students; and

(iii) agrees to collect and report interlibrary loan statistics annually in a form prescribed by the department.

(b) In conjunction with a committee representative of the libraries of institutions of higher education in the system's area of service, each reference and research library resources system shall formulate a regional *coordinated collection development plan*. There shall be provision in the plan for periodic review and revision.

(1) The method proposed for developing the plan and a report on the degree of progress toward completing the plan shall be submitted to the department with the applications for aid payable in the State fiscal year beginning April 1, 1981.

(2) A report on the degree progress toward completing the plan shall be submitted to the department with the applications for aid payable in the State fiscal year beginning April 1, 1982.

(3) The completed plan, with evidence of approval by a majority of the eligible applicants within the reference and research library resources system, shall be submitted with the applications for aid payable in the State fiscal year beginning April 1, 1983.

(c) *Application.* (1) Application shall be made each year in a form and by a date prescribed by the department.

(2) One application may be submitted by each college or university meeting the requirements of subdivision (a) of this section, and one grant may be made to each such college or university except that in the case of public or independent multi-institution systems, one application may be submitted by each principal center, as defined in subdivision (q) of section 50.1 of this Chapter.

(3) Each reference and research library resources system shall distribute application forms to the eligible applicants in its approved area of service, receive and review the applications, and transmit the applications meeting the eligibility standards of subdivision (a) of this section to the department with a recommendation for action.

(4) After April 1, 1982, the annual application shall include a statement of how grant funds will be used to implement the regional coordinated collection development plan.

(5) After April 1, 1982, the annual application shall include a certification by the college or university that the aid for coordinated collection development received in the preceding year was expended for library materials in accordance with that year's application.

(d) *Grant funds shall be expended for library materials only.*

(e) *Maintenance of effort.* Each applicant shall provide evidence in its annual application that in the academic year completed prior to the beginning of the State fiscal year expenditures for library materials were not less than 95 *per centum* of either the average annual aggregate amount or the average annual per full-time equivalent student amount expended for library materials in the two preceding academic years. The number of full-time equivalent students shall be calculated according to the formula set forth in Education Law, section 273(5)(b)(2). The commissioner, at his discretion, may waive this requirement.

(f) The final fall enrollment figures for the academic year completed prior to the beginning of the State fiscal year will be used to compute the *per student aid*. For purposes of this computation, first professional students shall be considered graduate students.

90.16 GRANTS FOR CONSERVATION AND/OR PRESERVATION OF LIBRARY RESEARCH MATERIALS.

(a) *Definitions.* As used in this section and in Education Law section 273(7):

(1) *Comprehensive research library* means those libraries designated in subdivision 7 of section 273 of the Education Law;

(2) *Agencies and libraries*, as used in Education Law section 273(7)(c) mean libraries chartered by the Regents or in institutions chartered by the Regents, other than comprehensive research libraries, and other agencies collecting, organizing, maintaining and making available to the people of the State library research materials as defined in paragraph (4) of this subdivision.

(3) A program of conservation and/or preservation means a coordinated set of activities for the protection, care and treatment of library materials to prevent loss of their informational or intellectual content and/or of the objects themselves, including, but not limited to:

(i) collection condition evaluation and preservation planning;

(ii) environmental control;

(iii) disaster prevention, preparedness and recovery;

(iv) preparation of library research materials for storage or exhibition, including binding, matting, boxing and other protective wrapping;

(v) collection maintenance, including cleaning and refurbishing;

(vi) screening to identify items needing preservation attention, including searching to establish the availability of replacements;

(vii) rebinding, minor repair and mending;

(viii) reformatting, including photocopying, microfilming, and copying disks to tape;

(ix) major conservation treatment, such as surface cleaning, deacidification, leather repair, and conservation rebinding;

(x) creating or modifying bibliographic records to reflect preservation decisions, including reporting microform masters to the library community.

(xi) quality control and testing of materials, processes and equipment used in any conservation and/or preservation activity; and

(xii) staff training and patron awareness programs.

(4) *Library research materials* mean informational materials in print, non-print, manuscript or any other format or medium which are part of the applicant's collections and are, or will be, made available for reference, on-site examination, and/or loan.

(5) *Unique library research materials* mean library research materials which are not accessible to the people of the State in any other collection in the State, or identifiable collections of library research materials, some portions of which may be accessible elsewhere in the State, which have research value not duplicated elsewhere in the State.

(b) *Five-year plan.* In order to be eligible for State aid for a program of conservation and/or preservation of library *research* materials pursuant to subdivision 7 of section 273 of the Education Law, each comprehensive research library shall submit a five-year plan and an annual program budget. To be eligible for a grant award in 1984, each comprehensive research library shall submit a statement describing the process it will use to develop the five-year plan, together with a program budget for preservation planning and other activities during the initial grant period. The first five-year plan shall be submitted by March 31, 1985. Subsequent plans shall be submitted at five-year intervals.

(c) *Plan.* The five-year plan for a program of conservation and/or preservation of library research materials shall include, but need not be limited to, the following elements:

(1) A brief description of the types of materials in the collections and their overall physical condition;

(2) A description of the current program of conservation and/or preservation, as defined in paragraph (3) of subdivision (a) of this section, including:

(i) a brief history of program activity;

(ii) the number and type of staff involved;

(iii) the administrative organization;

(iv) current expenditures;

(v) the volume of annual activity; and

(vi) the selection criteria, technical procedures, specifications or standards used, and monitoring or evaluation processes;

(3) A description of proposed expanded, modified and/or additional activities, including five-year goals for each area of program activity, and annual developmental objectives for reaching those goals covering each category set forth in paragraph (2) of this subdivision; and

(4) Evidence that local programs are designed and conducted so as to complement other conservation and/or preservation activities within and outside the State.

(d) *Preservation methods.* Activities in areas such as environmental control, the creation of microforms, and

specifications for materials and procedures used in physical treatment shall be conducted in accordance with standards approved by the commissioner.

(e) *Eligible expenditures.* Activities eligible for funding shall include those listed in paragraph (3) of subdivision (a) of this section, including personnel costs, service contracts, supplies and equipment, but excluding the acquisition of library research materials and building modification or construction. Activities shall be related to annual objectives contained in the five- year plan.

(f) *Applications and reports.*

(1) Each comprehensive research library which has received plan approval shall submit to the department, in a form prescribed by the department, an annual application and program description for conservation and/or preservation, including budget information for the next fiscal year, and a narrative and expenditure report on program activities during the prior year.

(2) Agencies and libraries applying for grants under Education Law section 273 (7)(c) shall submit project proposals in a form prescribed by the department, including, but not limited to, the following elements:

(i) A description of the unique library research materials to be preserved or conserved with grant funds;

(ii) A description of proposed conservation and/or preservation activities, and of the techniques to be employed in such activities;

(iii) A description of staff and/or data about suppliers of contract services which demonstrates appropriate training, experience and expertise for performing the proposed work;

(iv) Evidence of access to appropriate facilities for conservation and/or preservation;

(v) Assurance that bibliographic information in machine readable form will be available on materials preserved;

(vi) Evidence of institutional commitment to development of a coordinated approach to conservation and preservation in the State;

(vii) Institutional contribution to the project in matching funds and staff resources; and

(viii) Data demonstrating the volume of interlibrary lending by the applicant within the State and beyond, and public access to the applicant's holdings.

(g) *Advisory council.* The commissioner shall appoint a five member advisory council to assist in the development and operation of the grant program for conservation and/or preservation of research library materials. Such council shall consist of one member from each of the following:

(1) a comprehensive research library;

(2) an academic library;

(3) a public library;

(4) an historical society, archive, or other repository; and

(5) a person knowledgeable in conservation and/or preservation of library materials.

90.17 GRANTS TO REFERENCE AND RESEARCH LIBRARY RESOURCES SYSTEMS FOR A HOSPITAL LIBRARY SERVICE PROGRAM. (a) *Definitions.* (1) *Hospital library* shall mean a library in any hospital licensed by the New York State Department of Health which serves the professional information needs of professional and related staff. A *hospital* shall mean any not-for-profit hospital licensed by the New York State Department of Health, under article 28 of the Public Health Law, except:

(i) a facility against whose certificate action has been taken pursuant to Public Health Law section 2806;

(ii) a diagnostic and/or treatment center, a nursing home, and a home health agency;

(iii) a psychiatric hospital, even though housed within a hospital as defined under section 2801 of the Public Health Law.

(2) A *rural area* shall mean a county with a population density of 1,500 or less per square mile exclusive of that portion of such county which is within the corporate limits of a city with a population of 25,000 or more.

(3) A *non-rural* area shall mean an area other than rural areas as defined in paragraph (2) of this subdivision.

(4) A *rural hospital* shall mean a hospital which is located in a rural area.

(5) A *non-rural hospital* shall mean a hospital located in a non-rural area.

(6) A *hospital library* shall mean a library in a hospital which serves the professional information needs of professional and related staff.

(7) A *library serving a hospital* shall mean:

(i) library which has a health science collection of at least 1,500 monographic and 175 serial titles, offers a full range of medical information services including access to computerized medical data bases, and provides services to a hospital pursuant to a contract; or

(ii) if within a reference and research library resources region, a library meeting the requirements

of subparagraph (i) of this paragraph does not exist or is unwilling to serve, a library with a health sciences collection of at least 1,000 monographs and 125 serial titles and offering a full range of medical information services, including access to computerized medical data bases, provided that such library has been approved by the Education Department, upon the recommendation of the director of the reference and research library resources system, to serve a hospital pursuant to a contract.

(b) *Eligibility criteria.*(1) In order to be eligible for State aid for services to member hospital libraries pursuant to paragraph c of subdivision 4 of section 273 of the Education Law, a reference and research library resources system, other than the New York Metropolitan Reference and Research Library Agency, shall:

(i) for the calendar year 1984 be operating under a plan of service which was approved pursuant to former subparagraph (4) of paragraph d of subdivision 2 of section 272 of the Education Law;

(ii) submit by December 1, 1984, as an amendment to its plan of service, subject to approval by the commissioner, a five-year plan detailing services to member hospital libraries and to libraries serving hospitals, and showing how services to hospitals will be developed and implemented in the reference and research library resources system area; and

(iii) amend such plan every five years, and submit such amended plan to the commissioner for approval by the first day of December immediately preceding the expiration date of the plan.

(2) In order to be eligible for State aid for assessment and planning for services to member hospital libraries pursuant to paragraph c subdivision 4 of section 273 of Education Law, the New York Metropolitan Reference and Research Library Agency shall for the calendar year 1984 be operating under a plan of service which has been approved pursuant to paragraph d of subdivision 2 of section 272 of the Education Law, and shall submit, by December 1, 1985, as an amendment to its plan of service, a five-year plan, subject to approval by the commissioner, detailing services to member hospital libraries and to libraries serving hospitals, and showing how services to hospitals will be developed and implemented in that reference and research library resources system area. Such plan shall be amended every five years, and shall be submitted to the commissioner for approval by the first day of December immediately preceding the expiration date of the plan.

(c) *Five-year plan.* The plan shall include, but need not be limited to, the following elements:

(1) identification of all hospitals and hospital libraries within the system area, with an indication of which hospital libraries meet hospital library standards as set forth in subdivision (g) of this section and which do not;

(2) description of resources and needs of such hospitals and hospital libraries for library materials and information services;

(3) description of the services proposed to meet identified needs and to assist hospital libraries to meet the hospital library standards adopted by the Board of Regents, including a description of any direct services, contract services, or grants;

(4) identification of the libraries capable of providing information services to hospitals;

(5) identification of services to member hospital libraries and to libraries serving hospitals;

(6) description of methods to be used to involve hospitals in regional and statewide resource sharing networks;

(7) description of coordination with services provided under the Regional Medical Library Program (42 U.S.C. sections 280 a-1, 280 b (b) (5), and 280 b-8) including services provided pursuant to Education Law section 273 (4)(b);

(8) description of the method for providing hospitals which lack a library or a librarian with library services and materials to meet the professional information needs of all hospital staff by a professional librarian from a library serving a hospital, as defined in paragraph (7) of subdivision (a) of this section.

(d) *Application and reports.* (1) For calendar year 1984, each reference and research library resources system, except the New York Metropolitan Reference and Research Library Agency, shall submit to the department, in a form prescribed by the department, an application and program description for services to rural hospitals and for planning for services to non-rural hospitals, including budget information for the year and a narrative and budget report on such services during the prior year.

(2) For calendar year 1985 and succeeding years, each such reference and research library resources system which has received approval of its five-year plan shall submit to the department, by December 1, in a form prescribed by the department, an annual application and program description for services to hospitals in the region including budget information for the year. A narrative and budget report on the program of the prior year shall be due within 60 days of the end of the year.

(3) For each calendar year 1984 and 1985, the New York Metropolitan Reference and Research Library

Agency shall submit to the department, in a form prescribed by the department, an application and program description for assessment of need for and planning for services to hospitals in its system area, including budget information for the year and a narrative and budget report for the program of the prior year.

(e) *Planning consultation.* In preparing both the five-year plan of service and the annual application, each system shall consult with representatives from hospitals, libraries serving hospitals, consortia of health information libraries, and the designated health resource or area library or libraries of the Regional Medical Library Program (42 U.S.C. section 280 a-1, 280 b (b)(5) and 280 b-8). Both the five-year plan of service and the annual application shall describe the process by which such consultation has taken place.

(f) *Grants.* (1) The amount of State aid apportioned annually to each reference and research library resources system shall be determined by the commissioner within available appropriations, following review and approval of the annual applications, taking into account the number and size of hospitals to be served and the service to be provided.

(2) From the amount received annually by each system, the system may provide direct services to a hospital library, make grants to hospitals to assist those hospitals to meet or maintain the hospital library standards set forth in subdivision (g) of this section, provide support to a library serving a hospital, and plan for extension of services to hospitals not participating in the regional resource sharing network.

(3) In order to be eligible for a grant from a reference and research library resources system:

(i) a hospital shall submit a plan to the system describing the proposed use of the funds. The system shall review such plan and shall recommend to the department for approval, at the time the annual application and program description for services to hospitals is submitted, those plans which the system determines conform to the plan of service of the reference and research library resources system.

(ii) a library serving a hospital shall file a plan describing the services proposed to be rendered to hospitals. The system shall review such plan and shall recommend to the department for approval, at the time the annual application and program description for services to hospitals is submitted, those plans which the system determines conform to the plan of service of the reference and research library resources system.

(g) *Hospital library standards.* (1) Collection. A hospital library shall have an up-to-date authoritative collection of health-related informational materials appropriate to the needs of users, which shall be cataloged, labeled, and arranged to increase availability.

(2) Staff. A hospital library shall be under the direction of a full-time medical librarian and shall have adequate support staff to provide the library services necessary to support the clinical functions and other programs of the hospital, except that a hospital with less than 300 beds may operate under the direction of a full- or part-time medical librarian or under the direction of an employee trained in library skills and supervised by a medical librarian who is available through a contractual agreement.

(3) Services. A hospital library shall provide:

(i) on-site access to ready-reference information;

(ii) interlibrary loan of books, journal articles and audio-visual materials;

(iii) timely document delivery for information needs relating to direct patient care;

(iv) access to photocopying facilities;

(v) orientation to library services and resources;

(vi) instruction in the use of reference tools; and

(vii) access to bibliographies of print and nonprint materials and literature searches through the use of indexes and computer data bases.

(4) Participation in cooperative arrangements. A hospital library shall participate in cooperative activities and local consortia for such purposes as resource sharing, interlibrary loan, union listing and cooperative acquisitions, and shall be a member of a reference and research library resources system.

90.18 SCHOOL LIBRARY SYSTEMS. (a) *Definitions.* (1) The term *school library system* as used in this section means:

(i) an organization of school districts and nonpublic schools cooperating with a board of cooperative educational services (BOCES) to provide library coordination and/or services to member libraries under a school library system plan of service approved by the commissioner; or

(ii) the city school district of New York City, Buffalo, Rochester, Syracuse or Yonkers, which has responsibility for the development of public school libraries in accordance with the standards established in Part 91 of this Subchapter in its individual schools, and which provides library coordination and/or services to such schools and to nonpublic school libraries under a school library system plan of service approved by the commissioner.

(2) *Nonpublic school library* means a collection of informational materials located in an area in the school

devoted to library service for the students and faculty and under the supervision of a designated member of the school staff.

(3) *Member of a school library system* means a school district or nonpublic school enumerated in a school library system plan of service approved by the commissioner.

(4) *Participant in a school library system* means a school library in a member of a school library system.

(5) For the purpose of determining eligibility for State aid to a school library system pursuant to section 284 of the Education Law, *enrollment* means the number of pupils enrolled in the schools of members of a school library system on the first day of October of the base year as defined in section 3602 (1)(b) of the Education Law.

(6) *Certified school librarian* means a licensed teacher of library in the city school district of the city of New York, a licensed school librarian in the city school district of the city of Buffalo, or the holder of a school media specialist (library) certificate, or a predecessor of such certificate, in all other school districts and BOCES.

(7) *Coordinator of a school library system* means a certified school librarian with a minimum of three years employment as a school librarian and, for those serving as such a coordinator after July 1, 1987, possessing a school administrator and supervisor certificate in accordance with section 80.4(b) of this Chapter.

(b) *Governance.* (1) The board of cooperative educational services or the board of education of the city school district shall be the governing board of the school library system. In the case of a school library system serving a combination of BOCES and/or city school districts, one BOCES or city school district shall be designated as the official administrative agency. Each such board shall appoint members to the first school library system council, including nonpublic school representation, shall act as fiscal agent, and shall submit the plan of service to the commissioner for his approval

(2) School library system council.

(i) each school library system shall have a school library system council, which shall meet at least four times a year. Such school library system council shall be composed of at least nine members, and shall include representatives of the members in the school library system and of the public library systems and the reference and research library resources systems in the region. The plan of service shall specify the method of appointment of the school library system council, provided that the first council shall be appointed as set forth in paragraph (1) of this subdivision. The school library system council members shall serve three-year terms, provided that first members of each school library system council shall be appointed for terms of from one to three years so that, as nearly as possible, one-third of the members of the council shall thereafter be appointed each year. A vacancy on the school library system council shall be filled by the governing board for the duration of the term of the individual whose seat on the council is to be filled. Members shall serve without compensation.

(ii) The governing board and the council shall be responsible for development of the plan of service. Upon approval by the council, the governing board shall submit the plan to the commissioner for approval. After approval by the commissioner, it shall be the responsibility of the governing board and the council to monitor the implementation of the plan of service.

(c) *Plan of service.* (1) Content. A BOCES or board of education of an eligible city school district or combination of BOCES and/or eligible city school districts seeking funding as a school library system shall submit to the commissioner a plan of service approved by the school library system council in the form prescribed by him. The plan shall include, but not be limited to:

(i) identification of all school districts and nonpublic schools, both members and non-members, and their libraries, within the service area of the school library system, and the means by which the school library system will encourage school districts and nonpublic schools not yet served to become members;

(ii) statement of the policies and procedures to be used for selection of the school library system council members, indicating how such policies and procedures assure that the council is broadly representative of the providers and users of library services;

(iii) the means to be established for locating library materials within the participants through a machine-readable catalog which will be consistent with standards for regional bibliographic data bases set forth in section 90.19 of this Part;

(iv) procedures for accepting, verifying and responding to the requests for interlibrary loan, and a description of the delivery system for sharing library materials;

(v) identification of the staffing patterns that will support the system, including the advisory services to be available to its members;

(vi) plans for cooperating with school and other types of library systems, and the designation of the reference and research library resources system to

which the school library system will apply for a membership;

(vii) the means by which the school library system will assure compatibility in its computerized and other technical operations with those of other library systems of the State as specified in section 90.19(e) of this Part;

(viii) identification of special client group needs, and the means for meeting them;

(ix) the means by which the school library system will assure continuing needs assessment and program development, including staff development needs, and the appropriate activities to meet those needs;

(x) the means by which a plan for cooperative collection development shall be developed and implemented;

(xi) procedures for promoting awareness of resources and services among system members and participants;

(xii) procedures for encouraging communication among members and participants regarding effective practices and cooperative projects;

(xiii) procedures for an annual evaluation of programs and services, for an annual report to members and other appropriate groups on system programs and activities, and a description of how the results of the annual evaluation will be used to plan future programs and services;

(xiv) procedures for evaluating the appropriateness of combining or cooperating with an adjacent school library system to provide more effective and efficient delivery of services to the members and participants in both systems; and

(xv) a description of the responsibilities of district liaisons and, in city school district systems, of the communication coordinators.

(2) Criteria for approval.

(i) No plan of service of a school library system shall be approved unless there is evidence that the plan was developed collaboratively with the administrators and librarians of the schools in the area to be served, and there is evidence of consultation with public library systems and the reference and research library resources system in the area to be served.

(ii) No plan of service shall be approved unless it provides a method by which members of the school library system are obligated to permit the interlibrary loan of books and materials to other members of the school library system and to members of other systems with which the school library system has reciprocal interlibrary loan agreements, except for materials not loaned within a participating district or school.

(3) Revision. The plan of service of each school library system shall be effective for a period of three years. The initial plan and subsequent revisions thereof shall be filed no later than April 30 for implementation in the school year beginning the following July 1. The plan of service shall include signed statements from the chief school officer of each member that such person has reviewed the plan.

(d) *System staffing.* Each school library system shall employ a full time coordinator of the school library system. School library systems, or combinations thereof, with the enrollment of 200,000 students or more, shall employ at least an additional .5 full time equivalent certified school librarian for each additional 100,000 students, or major fraction thereof, to assist the coordinator in designated school library system activities. At least 50 percent of such staff shall be employed in the first year. At least one full time clerical staff member shall be assigned to each coordinator. Other professional and support staff members shall be employed as necessary to execute school library system functions. The adequacy of the staff in relation to the plan of service activities shall be determined by the commissioner.

(e) *Functions of the system coordinator.* The school library system coordinator will be responsible for the following aspects of the school library system, including, but not limited to:

(1) creation of a union catalog in appropriate format;

(2) establishment of interlibrary loan procedures, including delivery and policy;

(3) development of a cooperative collection development plan;

(4) planning of professional staff development and other continuing education activities;

(5) communications with the district liaisons or, in the city school district of New York, the communications coordinators, with the school library system council, and with other school or community personnel or agencies;

(6) development of a specialized collection of selection and verification tools for use by system members;

(7) planning periodic meetings of the school library system council and district liaison personnel;

(8) serving as advisor to member libraries and districts on program development and improvement and assisting with development and updating of members' plans developed pursuant to paragraph (4) of subdivision (f) of this section;

(9) serving as liaison to appropriate State Education Department offices concerning system and member needs and other matters;

(10) development of cooperative activities with other school library systems, public library systems and the reference and research library resources system;

(11) conducting periodic visits to members and participants;

(12) planning and conducting procedures for data gathering and reporting; and

(13) preparing annually a budget on forms prescribed by the commissioner to be submitted to the school library system council and governing board which shall approve and file such budget with the department no later than April 30 of each year.

(f) *Membership.* (1) All school districts and nonpublic schools located within a BOCES supervisory district which has established a school library system shall be eligible for membership in such school library system, provided that each such member shall designate a certified school librarian as the liaison to the school library system. The liaison shall implement the procedures to be followed in the district, within the general guidelines and procedures determined by the school library system, regarding data collection for union lists, cooperative collection development, other system requirements, intra-district and inter-district loan requests, and necessary reports. The liaison shall keep other librarians and staff of the members informed of school library system policies, procedures, activities, and services. Time to perform liaison duties shall be provided by the member. The liaison shall have access to an outside telephone line and photoduplication facilities.

(2) In the city school district of the city of New York, each community school district and borough assistant superintendent for high schools, and the division of special education shall designate a licensed teacher of library as communications coordinator to assist in liaison between the school library system staff and the libraries in the district. Within school library systems established by the city school districts of Buffalo, Rochester, Syracuse and Yonkers, a certified school librarian shall be designated as liaison to the school library system from each zone, representative area, or other internal subdivision of the city school district used for school organization. Nonpublic school members shall designate a representative to serve as liaison between such nonpublic school members and the school library system.

(3) Each member of a school library system shall permit the interlibrary loan of books and other library materials to other members of the school library system or members of other systems with which the school library system has reciprocal agreements, except for materials not otherwise loaned by such member.

(4) Within one year of becoming a member of a school library system, each school district and nonpublic school shall file with the system a plan which shows how district and building library resources and programs meet the needs of students and teachers, and describes the ways in which it proposes to make effective use of the system. Such plan shall include:

(i) a description of existing library resources and services in a format established by the school library system;

(ii) procedures for prompt and efficient communication among librarians and other members of the school community regarding system policies, procedures and services;

(iii) provisions for periodic reporting, at least annually, to the governing body of the school district or school and to the administration regarding participation of the member in system services; and

(iv) assurance by the member and its participants that adequate qualified staff is available to organize and administer the library program, including system responsibilities.

(5) Each participant in a city school district shall have procedures related to participation in the school library system plan as recommended by the school library system council.

(6) Each member and each participant shall have a minimum library collection as follows:

under 200 pupils, 1,000 volumes; 200-500 pupils, 3,000 volumes; 501-1,000 pupils, 5,000 volumes; over 1,000 pupils, 8,000 volumes.

[At least 50 percent of the nonfiction titles shall have been copyrighted within the last 15 years.]* Approval may be granted by the commissioner for a variance from the requirements of this paragraph upon receipt of adequate assurance that a plan of acquisitions will eliminate the deficiency.

(7) Each school library system member shall provide school library system personnel access to the shelf lists of its libraries for purposes of creating and maintaining a school library system union catalog.

(g) *Maintenance of effort.* A member of the school library system shall be eligible to participate in a school library system if, effective in 1986-87 and thereafter, its expenditure for school library materials, as reported in its annual financial report, is not less on a per capita

* The sentence in brackets [ ] is scheduled to be deleted in September, 1985.

basis in the preceding fiscal year than it was in the second preceding fiscal year. Approval may be granted for a variance from the requirements of this paragraph upon a finding that exceptional circumstances make compliance with such requirements infeasible.

(h) *Reports.* Each school library system shall transmit to the department annually, by September 15, a report for the year ending the previous June 30, in such form as shall be prescribed by the commissioner, and such other progress reports as may be required by the commissioner. Such annual report shall include the evaluation of the school library system council with respect to the effectiveness of the implementation of the plan of service.

(i) *Planning grants.* (1) Each board of cooperative educational services and each board of education of an eligible city school district seeking a planning grant in accordance with Education Law section 284(2)(a) shall submit to the commissioner, by November 16, 1984, an application and budget in the form prescribed by the commissioner.

(2) Planning grant funds may be expended only for the development of a school library system plan of service, and for the establishment of procedures and other preparation for school library system operation. No such funds may be expended for the acquisition of major equipment.

(3) No planning grant to develop a school library system plan of service shall be approved unless there is evidence that the application was developed collaboratively with administrators and librarians of the schools in the area to be served, and in consultation with public library systems and the reference and research library resources system in its area.

(4) For approval of the planning grant, each applicant shall certify that a planning project coordinator has been designated, and that other staff, as required for completion of the project, shall be available.

(5) The application shall identify a planning committee of at least nine members, who are representative of the providers and users of library services in the potential school library system area. Such planning committee shall assist the planning project coordinator to develop the planning grant application.

90.19 GRANTS FOR REGIONAL BIBLIOGRAPHIC DATABASES AND INTERLIBRARY RESOURCES SHARING. (a) *Definitions.* As used in this section and in Education Law section 273(6):

(1) *Regional bibliographic databases* mean machine-readable files of bibliographic and holdings records of libraries within a reference and research library resources system region, including public, academic, school and special libraries.

(2) *Region* means the geographic area served by an approved reference and research library resources system.

(3) *Library automation* means the application of computer and telecommunications technology to bibliographic control and resource sharing operations with the purpose of improving and enhancing services to library users.

(4) *Designated agent* means the public library system or the reference and research library resources system identified in a plan to administer the regional grant.

(b) *Plans.*

(1) The five-year plan for regional bibliographic databases and interlibrary resources sharing shall be prepared by the directors of the participating public library and reference and research library resources systems in a form prescribed by the commissioner, and shall be approved by the boards of trustees of all such systems. The plan shall include as participants all public library systems and the reference and research library resources system in the region, and shall provide for the participation of school library systems when such are established in the region and approved by the commissioner.

(2) An annual plan and budget, consistent with the approved five-year plan, shall be prepared by the directors of the participating systems and shall be approved by the boards of trustees of the public library and reference and research library resources systems. Such annual plan and budget shall be submitted in a form and according to a timetable prescribed by the commissioner. The annual plan shall describe the methods by which the designated agent was selected, and shall present evidence that such agent has sufficient and appropriate financial staff to administer the regional grant.

(3) The initial five-year plan shall be submitted by December 31, 1984. To be eligible for a grant award in 1984, the region through its designated agent shall submit by September 14, 1984 an interim annual plan and budget and a description of the process to be used to develop the five-year plan.

(c) *Elements of the regional plan.* Five-year plans shall provide a description of current library automation in the region, of library automation needs, and of proposed actions, and shall include, but need not be limited to:

(1) a description of the machine-readable bibliographic and holdings records already in existence in the region, and the databases of which they are a part;

(2) a description of the bibliographic and holdings records to be converted to machine-readable form, including the number of such records, types of material, subject areas, and their importance to regional and State resource sharing;

(3) a description of linkages between existing and proposed databases;

(4) a description of the means of accessing databases;

(5) a description of the means for maintaining and updating databases;

(6) the availability of materials represented in databases for resource sharing in the region and in the State;

(7) a description of information and other library services needs in the region which may be met through library automation;

(8) a description of regional library automation goals and objectives for the five-year period;

(9) a year-by-year projection of library automation activities in priority order, which in years two through five of the plan may be revised, expanded or re-ordered in the annual plan and budget;

(10) evidence that the library automation plan will improve the quality of library service available to residents of the region;

(11) evidence that the plan takes into account the automation needs of all types of libraries in the region, and that the plan for meeting such needs is practical and equitable;

(12) evidence that efforts will be made to promote awareness of the increased availability of materials resulting from the plan;

(13) a description of the process used to develop the plan, including the participation of member libraries; and

(14) methods for monitoring and evaluating accomplishments, with identification of the participating systems and/or member libraries that will be involved in such monitoring and evaluation.

(d) *Criteria for approval.* Approval of five-year plans and annual plans and budgets will be based on the following criteria:

(1) The comprehensiveness of the plan, including:

(i) the number of participants;

(ii) the size and scope of the regional bibliographic databases;

(iii) evidence of continuous efforts to develop the regional bibliographic data bases;

(iv) the means to be used in measuring improvement;

(2) The specificity and supporting data provided;

(3) The managerial and technical support needed and available to carry out the project;

(4) The potential for stimulating cooperation and resource sharing among libraries, and the value for improving access to bibliographic data within the region and in other regions in the State;

(5) Commitment to be part of a linked statewide data base;

(6) System and member library commitment to ongoing participation in automated systems, including membership in bibliographic databases and evidence of staffing and other support;

(7) The response to local needs as identified and assessed by the plan;

(8) Conformance to national bibliographic standards as provided in subdivision (e) of this section; and

(9) Efficiency and economy.

(e) *Standards and requirements for library automation projects.* (1) Bibliographic data, serials records, and serials holdings statements shall be created and maintained in a form which, in the determination of the commissioner, assures regional and intersystem statewide compatability.

(2) Communications disciplines shall be compatible with such disciplines used by the New York State Library, and shall be approved by the commissioner.

(3) Bibliographic records converted through the use of these funds shall be made available, for the purpose of resource sharing, to the State Library without charge other than the cost of duplicating such records.

(f) *Determination of grants.* The award of annual grants, and the determination of what amount, if any, each region will receive in excess of the minimum annual grant, will be based upon the following criteria:

(1) The number of participating systems, member libraries and records to be affected;

(2) The importance of the proposed regional bibliographic data base activity to intersystem and intertype library resource sharing;

(3) The role of the regional proposal in the development of a statewide bibliographic network for resource sharing;

(4) The value and uniqueness of the information sources to be made more accessible by the regional proposal; and

(5) The timetable for accomplishing the stated objectives, and the effect increased funding would have on their accomplishment.

(g) *Reports.* Each region which receives an annual grant for regional bibliographic data base and interli-

brary resources sharing shall submit in the form prescribed by the commissioner, and by dates set by him, semiannual progress reports on the project.

PART 92
NEW YORK STATE LIBRARY

Section 92.1. New York State Library. (a) *Use of library materials at the State Library.* All adults may use the resources of the State Library onsite for reference purposes during the hours that the library is open to the public.

(b) *Borrowers.* The following may borrow any circulating library material, provided that they comply with the provisions of this section:

(1) Official. Members of the Legislature, Regents of the university, judges of the Court of Appeals, justices of the Supreme Court, and heads of State departments, commissions and institutions. Permanently appointed State employees may borrow such material for use in connection with their official duties under either of the following conditions:

(i) through a library established by a State department or agency, or a library representative designated by the head of a department or agency; or

(ii) to an individual upon registration with the library; registration will be granted upon certification, by a supervisor at the bureau chief level or above, that an individual is currently a permanent employee of a State agency and requires library materials in connection with official duties.

(2) Professional. Licensed physicians and duly admitted attorneys, who are residents of New York State, may borrow materials needed in connection with professional duties.

(3) Institutional. All institutions in the university, registered or accredited by the Regents, and institutions maintained by Federal, State and local governments, and such other libraries as may be so designated by the assistant commissioner for libraries, may borrow from the State Library through library systems or other access points so designated by the assistant commissioner for libraries.

(4) Individual. Individuals may have access to the collections of the State Library through the institutions listed in paragraph (3) of this subdivision.

(5) Special permission. Individuals or agencies that do not have access to library services through the means described above may be granted permission to borrow from the State Library, for a limited period, at the discretion of the assistant commissioner for libraries.

(c) *Loans.* Loans from the State Library are limited to library materials not to be had in local libraries or library systems.

(1) Lending period. The ordinary loan period is four weeks, with renewal privilege for two weeks.

(2) Renewal. A single renewal for a period of two weeks may be secured. However, prior reservation by another patron will take precedence over renewal.

(3) Recall. All library materials are subject to recall at any time and, when recalled, must be returned at once.

(4) Library materials not returned. Any library materials not returned within one week after notice may be sent for at the expense of the borrower, and if not returned within one month may be considered lost and the borrower required to pay replacement and processing costs.

(5) Penalties. Violation of the provisions of this subdivision may result in suspension of loan privileges for six months. Persistent violation of the provisions of this subdivision shall result in permanent suspension of loan privileges.

(6) Reserves. Library materials, except those which are deemed restricted under this Part, may be reserved. When reserved material becomes available, the requesting library or individual will be so notified. Reserved material will not be held longer than a week after date of notification.

(d) *Interlibrary loans to libraries outside New York State.* Materials not readily available elsewhere and requested for purposes of scholarship and research will be lent when possible to libraries in other states. The assistant commissioner for libraries may enter into reciprocal borrowing arrangements with other libraries or groups of libraries.

(e) *Restricted materials.* Restricted materials shall include:

(1) reference books or books in great demand at the State Library, which are lent only under conditions specified by the library;

(2) periodicals and newspapers, bound and unbound, which are not available for loan, although photocopies or microfilm may be provided under conditions specified by the library;

(3) manuscripts and books of exceptional rarity or value, which may be used only in the library;

(4) genealogies and local histories, which will be lent only when the library owns duplicate copies;

(5) materials of such fragility, rarity, size or other consideration as to be unsuitable for use outside of the building. The assistant commissioner for libraries

may establish terms and conditions for the loan of other materials in special collections of the library.

(f) *Loan of manuscripts and archives.* Manuscripts and archival materials which are in the custody of the State Library may be loaned to local historical associations, museums, libraries or other responsible educational organizations upon terms and conditions set forth in an agreement between the department, acting through the assistant commissioner for libraries, and the organization requesting the loan, except that loans of the following shall be subject to approval by the Regents:

Charter of the Colony from Charles II to the Duke of York, 1664

"Duke of York's Laws", 1664-65

Charter of Liberties and Privileges ("Dongan Laws"), 1683-84

Original Laws of New York as Colony and State, 1683 to date

Original Treaties and Other Papers, 2 vols: v. 1, 1842-45; v. 2, 1807-30

Original Letters-Patent (Engrossed into Books of Patents), 1664-1786

Constitutions of the State of New York: 1777, 1821, 1864, 1894 and 1938

Amendments to Constitution of State of New York, 1801

Journal of the Albany Congress of 1754 (Albany Plan of Union)

Journal of the Convention to Ratify the Proposed Constitution of the United States, Poughkeepsie, 1788

Ratification of the Proposed Constitution of the United States by the State of New York, Poughkeepsie, 1788

Autographs of Signers of Declaration of Independence – Special Collection

Flushing Remonstrance, December 27, 1657

Washington Relics, as Authorized to be Purchased for the State Library, Chapter 715, Laws of 1871, and Listed in the Annual Report of the Library for 1873

President Lincoln's First Emancipation Proclamation, September 22, 1862 – Original Draft

EXCERPTS FROM OTHER LAWS, REGULATIONS, AND OPINIONS WHICH AFFECT LIBRARIES AND LIBRARY SYSTEMS

ARTS AND CULTURAL AFFAIRS LAW

TITLE U, ARTICLE 57, DIVISIONS OF HISTORY AND PUBLIC RECORDS

§57.05. STATE ARCHIVES.

1. ...
2. ...
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10. In addition it shall be the function of the state archives to examine into the condition of the records, books, pamphlets, documents, manuscripts, archives, maps, papers, photographs, microphotographs or other information storage devices regardless of physical form or characteristics kept, filed or recorded in the public offices of the counties, cities, towns, villages or other civil or political subdivisions of the state, and to advise and recommend to officials in those public offices having custody or control over the records and information storage devices hereinbefore described as to making, managing, reproducing, preserving or disposing of those records and devices in their custody or control. The recommendations of the state archives may be enforced by an order issued by a justice of the supreme court upon application of the commissioner of education, either with or without notice to the proper public officer, as such justice may require. Upon request of the chief executive of any city with a population of one million or more, which has boroughs contained therein, the commissioner of education may permit such city or borough to assume the functions mentioned in this subdivision as the responsibility of each such city or county.

§57.07. DEFINITION OF PUBLIC RECORDS. 1. The words "public records" as used in this chapter shall, unless a contrary intention clearly appears, mean any book, paper, map, photograph, microphotograph or other information storage device regardless of physical form or characteristic which is the property of the state or of any state agency, department, division, board, bureau, commission, county, city, town, village, district or any subdivision thereof by whatever name designated in or on which any entry has been made or is required to

be made by law, or which any officer or employee of any of said bodies has received or is required to receive for filing.

2. ...

§57.11. DESTRUCTION OF PUBLIC RECORDS. 1. No officer of any county, city, town or village or other political division of the state shall destroy, sell or otherwise dispose of any public record, original or copied, or any archives, in his care or custody or under his control, and which are no longer in current use, without first having advised the commissioner of education of their nature and obtained his consent.

2. The provisions of this section shall not apply to:

(a) The records of any city with a population of one million or more, and the records of any county contained therein, so long as the destruction of the records of such city or county shall be carried out in accordance with the procedure prescribed by any existing law exclusively applicable to the destruction of the records of such city or county. If any such law shall be amended by local law after the first day of July, nineteen hundred fifty-one, the provisions of this section shall not apply to the destruction of such records if the procedures therefor established by such law, as amended by local law, shall be acceptable to the commissioner of education.

(b) ...

(c) ...

(d) ...

(e) The records of any public corporation which have not been retained for the longest minimum period of time required:

(i) by rules and regulations of the commissioner of education; or

(ii) by any agency of the state so that it may properly carry out its assigned duties and responsibilities; or

(iii) because of any provision of law.

3. Notwithstanding the provision of subdivision two of this section, the commissioner of education shall have power to consent to the disposition of records of a public corporation which have not been retained for the longest minimum period of time required by rules and regulations of the commissioner of education, by any agency of the state, or because of any provision of law, provided that such records have been photographed, microphotographed, or reproduced on film, in accordance with section fifty-one-a of the general municipal law or section sixty-five- a of the public officers law.

TITLE W, ARTICLE 61,
MISCELLANEOUS PROVISIONS

§61.05 FREE PUBLIC LIBRARIES. Any municipal corporation may establish and maintain a free public library or museum in accordance with the library provisions of section two hundred fifty-three to two hundred seventy-one, both inclusive, of the education law.

REGULATIONS OF THE COMMISSIONER
SUBCHAPTER N
Public Records and Department Publications
PART 185
RECORDS OF PUBLIC CORPORATIONS

Section 185.1 *Definitions.* As used in this Part:

(a) *Public corporation* includes a municipal corporation and a district corporation

(b) (1) *Municipal* corporation includes a county, city, town, village.

(2) For the purposes of this Part only, *municipal corporation* includes a school district.

(c) *District corporation* includes any territorial division of the State, other than a municipal corporation, heretofore or hereafter established by law which possesses the power to contract indebtedness and levy taxes or benefit assessments upon real estate or to require the levy of such taxes or assessments, whether or not such territorial division is expressly declared to be a body corporate and politic by the statute creating or authorizing the creation of such territorial division.

(d) *Retention period* refers to the minimum period of time which must elapse before a record is eligible for disposition.

(e) *Records retention and disposition schedule* refers to a list of records and their retention periods which is provided by the commissioner to a public officer of a public corporation.

(f) *Record* refers to any book, paper, map, photograph, microphotograph or other information storage medium regardless of physical form or characteristic kept by a public officer of a public corporation.

(g) *Disposition* refers to the disposition by destruction, sale or other means of a public record kept by a public officer of a public corporation.

(h) *State agency* includes departments, divisions, boards, bureaus, commissions, authorities and other bodies assigned administrative functions of State government by the Legislature, except public benefit corporations and temporary commissions of the Legislature.

185.2 ESTABLISHING RECORDS RETENTION PERIODS. The commissioner will establish a retention period for the records kept by any public officer of any public corporation. When establishing records retention periods, the commissioner will take into account the longest period of time required by the Federal government; or by any State agency so that it may properly carry out its assigned duties and responsibilities; or be-

cause of any provision of law. Consideration will also be given to any administrative, legal, fiscal, research, historical or educational value of the information contained in such records.

185.5 DISTRIBUTION OF RECORDS RETENTION AND DISPOSITION SCHEDULES. A records retention and disposition schedule indicating retention periods for records kept by a public corporation may be obtained by each county, city, town, village, school district, and other public corporation upon request to the commissioner.

185.6 DISPOSITION OF RECORDS. Consent of the commissioner to the destruction, sale or other disposition of records is granted to any public officer when the following provisions have been fulfilled:

(a) records have been held a sufficient time to satisfy their retention periods as prescribed in the records retention and disposition schedule;

(b) certification has been filed with the commissioner that:

(1) such records no longer have sufficient administrative fiscal or legal value to warrant their continued retention;

(2) the governing body by resolution has authorized disposition of records by adopting the retention periods set forth in the appropriate records retention and disposition schedule.

(c) ...

185.7 RECORDS NOT SUBJECT TO DISPOSITION. Pursuant to section 65-b of the Public Officers Law the commissioner will not consent to the disposition of records containing information of any administrative, legal, fiscal, research, historical or educational value which warrants their permanent retention. These shall include, but not be limited to, the following:

(a) incorporation and dissolution certificates of municipal and district corporations;

(b) official minutes of the legislative body of municipal and district corporations and the boards and agencies thereof;

(c) original official copies of local laws, ordinances, rules and regulations of municipal and district corporations and the boards and agencies thereof;

(d) oath books and registers of official signatures of the public officers of municipal and district corporations and the boards and agencies thereof;

(e) official copy of annual or special reports filed with the governing body of municipal and district corporations by officers, boards and agencies thereof;

(f) documents recording the official acquisition, sale, transfer, or mortgage of public or private real property;

(g) official maps, surveys and reports on boundaries indicating the legal location of public or private real property;

(h) ...

(i) ...

§186.1 DISTRIBUTION AND SALE OF PUBLICATIONS OF EDUCATION DEPARTMENT.

(a) The distribution and sale of department publications shall be under the supervision of the Commissioner of Education.

(b) The department publications may be furnished without charge for use in the department.

(c) Not more than one copy of any department publication may be furnished without charge to any State school official, head of State department, member of the Legislature, newspaper, education department of another state, donor to this department, school, library or other institution that is a member of the University of the State of New York.

(d) Whenever an individual has contributed to or cooperated in the preparation of a department publication, a reasonable number of copies thereof may be furnished to him without charge.

(e) No charge shall be made for blank forms, reports, pamphlets and other printed documents necessary or proper in the conduct of the official business of the department.

CIVIL PRACTICE LAW AND RULES

ARTICLE 45 – EVIDENCE

§4509. LIBRARY CIRCULATION RECORDS. Records related to the circulation of library materials which contain names or other personally identifying details regarding the users of public, free association, school, college and university libraries and library systems of this state shall be confidential and shall not be disclosed except that such records may be disclosed to the extent necessary for the proper operation of such library and shall be disclosed upon request or consent of the user or pursuant to subpoena, court order or where otherwise required by statute.

CIVIL SERVICE LAW

ARTICLE IV – RECRUITMENT OF PERSONNEL

TITLE B – APPOINTMENT AND PROMOTION

§62. CONSTITUTIONAL OATH UPON APPOINTMENT. Every person employed by the state or any of its civil divisions, except an employee in the labor class, before he shall be entitled to enter upon the discharge of any of his duties, shall take and file an oath or

affirmation in the form and language prescribed by the constitution for executive, legislative and judicial officers, which may be administered by any officer authorized to take the acknowledgement of the execution of a deed of real property, or by an officer in whose office the oath is required to be filed. In lieu of such oath administered by an officer, an employee may comply with the requirements of this section by subscribing and filing the following statement: "I do hereby pledge and declare that I will support the constitution of the United States, and the constitution of the state of New York, and that I will faithfully discharge the duties of the position of ....., according to the best of my ability." Such oath or statement shall be required only upon original appointment or upon a new appointment following an interruption of continuous service, and shall not be required upon promotion, demotion, transfer, or other change of title during the continued service of the employee, or upon the reinstatement pursuant to law or rules of an employee whose services have been terminated and whose last executed oath or statement is on file. The oath of office heretofore taken by an employee as previously required by law, and the oath of office hereafter taken or statement hereafter subscribed by any employee pursuant to this section, shall extend to and encompass any position or title in which such person may serve as an employee during the period of his continuous service following the taking of such oath or subscribing of such statement, and his acceptance of such new title shall constitute a reaffirmance of such oath or statement. The oath or statement of every state employee shall be filed in the office of the secretary of state, of every employee of a municipal corporation with the clerk thereof, and of every other employee, including the employees of a public library and the employees of boards of cooperative educational services, if no place be otherwise provided by law, in the office of the clerk of the county in which he shall reside. The refusal or wilful failure of such employee to take and file such oath or subscribe and file such statement shall terminate his employment until such oath shall be taken and filed or statement subscribed and filed as herein provided.

ARTICLE VII – ENFORCEMENT; PROHIBITIONS; PENALTIES

TITLE A – DUTIES OF PUBLIC OFFICERS; WAIVERS OF RIGHTS

§95. DUTIES OF PUBLIC OFFICERS. It shall be the duty of all officers of the state of New York or of any civil division or city thereof to conform to and comply with and to aid in all proper ways in carrying into effect the provisions of this chapter, and the rules and regulations prescribed thereunder. No officer or officers having the power of appointment or employment shall appoint or select any person for appointment, employment, promotion or reinstatement except in accordance with the provisions of this chapter and the rules and regulations established thereunder. Any person employed or appointed contrary to the provisions of this chapter or of the rules and regulations established thereunder shall be paid by the officer or officers so employing or appointing, or attempting to employ or appoint him, the compensation agreed upon for any services performed under such appointment or employment or, in case no compensation is agreed upon, the actual value of such services and any necessary expenses incurred in connection therewith, and shall have a cause of action against such officer or officers for such sum and for the costs of the action. No public officer shall be reimbursed by the state or any of its civil divisions for any sums so paid or recovered in any such action.

EXECUTIVE LAW

ARTICLE 7-A-SOLICITATION AND COLLECTION OF FUNDS FOR CHARITABLE PURPOSES

§171. DEFINITIONS. The following words and phrases as used in this article shall have the following meanings unless a different meaning is required by the context.

1. "Charitable organizations." Any benevolent, philanthropic, patriotic, or eleemosynary person or one purporting to be such.

2. "Contribution." The promise or grant of any money or property of any kind of value, including a grant or other financial assistance from any agency of government, but except payments by members of any organization for membership fees, dues, fines, or assessments, or for services rendered to individual members, if membership in such organization confers a bona fide right, privilege, professional standing, honor or other direct benefit, other than the right to vote, elect officers, or hold offices.

3. "Person." Any individual, organization, group, association, partnership, corporation, or any combination of them.

4. "Professional fund raiser." Any person who for compensation or other consideration plans, conducts, manages, or carries on any drive or campaign in this state for the purpose of soliciting contributions for or on behalf of any charitable or religious organization or any other person, or who engages in the business of, or holds himself out to persons in this state as independently engaged in the business of soliciting contributions for such purpose. A bona fide officer or employee of a charitable or religious organization shall not be deemed a professional fund raiser.

5. "Professional solicitor." Any person who is employed or retained for compensation by a professional fund raiser to solicit contributions for charitable purposes from persons in this state.

6. "Commercial co-venturer." Any person, who for profit or other commercial consideration, shall conduct, promote, underwrite, arrange, or sponsor a sale, performance or event of any kind which is advertised will benefit, to any extent, a charitable or religious organization. However, any such person who will benefit in good will only, shall not be deemed a commercial co-venturer if the collection and distribution of the proceeds of the sale, performance or event are supervised and controlled by the benefiting charitable or religious organization.

7. "Secretary." The secretary of state.

§172. REGISTRATION OF CHARITABLE ORGANIZATIONS. 1. Every charitable organization, except as otherwise provided in section one hundred seventy-two-a of this article, which intends to solicit contributions from persons in this state or from any governmental agency by any means whatsoever shall, prior to any solicitation, file with the secretary upon forms prescribed by it, the following information:

(a) The name of the organization and the name or names under which it intends to solicit contributions.

(b) The names and addresses of the officers, directors, trustees, and executive personnel of the organization.

(c) The addresses of the organization and the addresses of any offices in this state. If the organization does not maintain an office, the name and address of the person having custody of its financial records.

(d) Where and when the organization was legally established, the form of its organization and its tax exempt status.

(e) The purposes for which the organization is organized and the purpose or purposes for which the contributions to be solicited will be used.

(f) The date on which the fiscal year of the organization ends.

(g) Whether the organization is authorized by any other governmental authority to solicit contributions and whether it is or has ever been enjoined by any court from soliciting contributions.

(h) The names and addresses of any professional fund raisers and commercial co-venturers who are acting or have agreed to act on behalf of the organization.

2. The registration form shall be signed by the president or other authorized officer and the chief fiscal officer of the organization.

3. For filing such registration, the secretary shall receive a fee of twenty-five dollars, to be paid at the time of registration.

4. Such registration shall remain in effect unless it is either cancelled as provided in this article or withdrawn by the organization.

5. Every registered organization shall notify the secretary within ten days of any change in the information required to be furnished by such organization under paragraph a or h of subdivision one of this section.

6. In no event shall a registration of a charitable organization continue, or be continued, in effect after the date such organization should have filed, but failed to file, an annual report in accordance with the requirements of section one hundred seventy-two-b of this article, and such organization shall not be eligible to file a new registration until it shall have filed the required annual report with the secretary. If such report is subsequently filed such organization may file a new registration upon the payment of a fee of one hundred dollars to the secretary.

7. Registration statements, financial reports, professional fund raisers' contracts, and other documents required to be filed pursuant to this article become public records in the office of the secretary.

§172-a. CERTAIN PERSONS EXEMPTED. 1. ...

2. The following persons shall not be required to register with the secretary:

(a) An educational institution the curriculums of which in whole or in part are registered or approved by the state education department either directly or by acceptance of accreditation by an accrediting body recognized by such department, an educational institution confining its solicitation of contributions to its student body, alumni, faculty and trustees, and their families, or a library registered by the state education department, provided that the annual financial report of such institution or library shall be filed with the state education department where it shall be open for public inspection.

(b) ...

(c) ...

(d) Any charitable organization which does not intend to solicit and receive and does not actually receive contributions in excess of ten thousand dollars during a fiscal year of such organization, provided all of its fund raising functions are carried on by persons who are unpaid for such services. However, if the gross contributions received by such charitable organization during any fiscal year of such organization shall be in excess of ten thousand dollars, it shall within thirty days after the date it shall have received total contributions in excess of ten thousand dollars register with the secretary as required by section one hundred seventy-two of this article.

(e) Any charitable organization receiving an alloca-

tion from an incorporated community chest or united fund, provided such chest or fund is complying with the provisions of this article relating to registration and filing of annual reports with the secretary, and provided such organization does not actually receive, in addition to such allocation, contributions in excess of ten thousand dollars during the fiscal year, and provided further that all the fund-raising functions of such organizations are carried on by persons who are unpaid for such services. However, if the gross contributions other than such allocation received by such charitable organization during any fiscal year of such organization shall be in excess of ten thousand dollars, it shall within thirty days after the date it shall have received such contributions in excess of ten thousand dollars register with the secretary as required by section one hundred seventy-two of this article.

(f) ...

§263. The provisions of Education Law §263 do not relieve libraries and museums from the obligation of financial reporting to the Office of Charities Registration of the Department of State under this article. 1980, Op.Atty.Gen.June 9.

§172-b. REPORTS BY REGISTERED CHARITABLE ORGANIZATIONS; REGISTRATION TO BE CANCELLED FOR FAILURE TO FILE.

1. Every charitable organization registered pursuant to section one hundred seventy-two of this article which shall receive in any fiscal year of such organization total revenue and support in excess of fifty thousand dollars and every charitable organization whose fund-raising functions are not carried on solely by persons who are unpaid for such services shall file a written report with the secretary upon forms prescribed by the secretary, on or before the fifteenth day of the fifth calendar month after the close of such fiscal year, which shall include a financial statement covering such fiscal year, clearly setting forth the gross income, expenses, and net income inuring to the benefit of the charitable organization, a balance sheet as of the close of such fiscal year and a schedule of the activities carried on by the organization in the performance of its purposes, and the amounts expended thereon, during such fiscal year. Each such organization shall report its expenditures in accordance with standard and classifications of accounts prescribed by the secretary to effect uniform reporting by organizations having similar activities and programs. Such report shall also include a statement of any changes in the information required to be contained in the registration form filed on behalf of such organization. The report shall be signed by the president or other authorized officer and the chief fiscal officer of the organization, and shall be accompanied by an opinion signed by an independent public accountant that the financial statement and balance sheet therein fairly represent the financial operations and position of the organization. A fee of twenty-five dollars payable to the secretary shall accompany such report at the time of filing.

2. Every organization registered pursuant to section one hundred seventy-two of this article which shall receive in any fiscal year of such organization total revenue and support not in excess of fifty thousand dollars and all of whose fund-raising functions are carried on by persons who are unpaid for such services shall file a written report with the secretary upon forms prescribed by the secretary, on or before the fifteenth day of the fifth calendar month after the close of such fiscal year, which shall include a financial statement covering such fiscal year in accordance with such requirements as the secretary may prescribe. Such report shall also include a statement of any changes in the information required to be contained in the registration form filed on behalf of such organization. The report shall be signed by the president or other authorized officer and the chief fiscal officer of the organization who shall certify that the statements therein are true and correct to the best of their knowledge. A fee of ten dollars payable to the secretary shall accompany such report at the time of filing.

3. For any fiscal year of any organization registered pursuant to section one hundred seventy-two of this article in which such organization would have been exempt from registration pursuant to section one hundred seventy-two of this article if it had not been so registered, or in which it did not solicit or receive contributions, such organization shall file, instead of the reports required by subdivisions one or two of this section, a report in the form of an affidavit of its president and chief fiscal officer stating the exemption and the facts upon which it is based or that such organization did not solicit or receive contributions in such fiscal year. The affidavit shall also include a statement of any changes in the information required to be contained in the registration form filed on behalf of such organization.

4. ...

5. The secretary shall cancel the registration of any organization which fails to comply with subdivision one, two or three of this section within the time therein prescribed, or fails to furnish such additional information as is requested by the secretary within the required time; except that the time may be extended by the secretary for a period not to exceed one hundred eighty days. Notice of such cancellation shall be mailed to the registrant at least fifteen days before the effective date thereof.

6. All records, books and reports maintained by any

charitable organization registered or required to register pursuant to section one hundred seventy-two of this article shall at all times be available for inspection at the principal office of such organization, by the secretary or the attorney general, or their duly authorized representatives.

GENERAL MUNICIPAL LAW

ARTICLE 3 – REPORT OF FINANCIAL CONDITION

§30. REPORTS. 1. ...

2. ...

3. An annual report of financial transactions shall be made by the treasurer of each public library and library service system established pursuant to section two hundred fifty-five of the education law, each county vocational education board established pursuant to section eleven hundred one of the education law and each board of cooperative educational services established pursuant to section nineteen hundred fifty-eight of the education law.

4. ...

5. All reports shall be certified by the officer making the same and shall be filed with the comptroller within sixty days after the close of the fiscal year of such municipal corporation, district, agency or activity. Upon written request from the chief fiscal officer of a municipal corporation, district, agency or activity, the comptroller may extend the period for filing such report for an additional sixty days. It shall be the duty of the incumbent officer at the time such reports are required to be filed with the comptroller to file such report. The refusal or wilful neglect of such officer to file a report as herein prescribed shall be a misdemeanor and subject to the financial officer so refusing or neglecting to a penalty of five dollars per day for each day's delay beyond the sixty days to be paid on demand of the comptroller. Notwithstanding any of the provisions contained in this section, the city of New York shall file its report with the comptroller within four months after the close of its fiscal year.

§31. FORM OF REPORTS. The report shall be in the form to be prescribed by the comptroller and shall contain:

1. A statement of the receipts of such municipal corporation, district, agency or activity from all sources and of all accounts or revenue which may be due and uncollected at the close of the fiscal year.

2. A statement of the disbursements of such municipal corporation, district, agency or activity during the fiscal year.

3. A detailed statement of the indebtedness of the municipal corporation, district, agency or activity at the close of the fiscal year, the provisions made for the payment thereof, together with the purposes for which it was incurred.

4. A statement of the costs of ownership and operation and of the income of each and every public service industry owned, maintained or operated by any such municipal corporation, district, agency or activity.

5. Such further or more specific information in relation to the cost of any branch of the service, or the cost of any improvement, of such municipal corporation, district, agency or activity, as may be required by the comptroller.

§32. COMPTROLLER TO FURNISH BLANK FORMS. The comptroller shall annually furnish to the officers required to make reports by the provisions of this article other than officers of a school district subject to the jurisdiction of a district superintendent under the provisions of article fourteen of the education law, at least ninety days before the time such reports are required to be filed with him, printed blanks and forms on which shall be indicated the information required, together with suitable printed instructions for filling out the same.

ARTICLE 4 – NEGLIGENCE AND MALFEASANCE OF PUBLIC OFFICERS: TAXPAYERS REMEDIES

§51-a. REPRODUCTION OF RECORDS ON FILMS AND DESTRUCTION OF RECORDS SO REPRODUCED. 1. The head of any department, commission or board of a municipal corporation may cause any or all records kept by him or it, to be photographed, microphotographed or reproduced on film. Such photographic film shall be of durable material and the device used to reproduce such records on such film shall be one which accurately reproduces the original record in all details.

2. Such photographic film shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. A transcript, exemplification or certified copy thereof shall, for all purposes recited herein, be deemed to be a transcript, exemplification, or certified copy of the original.

3. Whenever such photographs or microphotographs or reproductions on films shall be placed in conveniently accessible files and provisions made for preserving, examining and using the same, the said head of a department, commission or board may certify those facts to the head of such municipal corporation who shall have the power to authorize the destruction, sale, or other disposi-

tion of such records or papers, provided the consent of the commissioner of education is obtained pursuant to section one hundred forty-seven of the education law.

§52. LIABILITY INSURANCE FOR OFFICERS AND EMPLOYEES. Each city, county, fire district, school district, town and village, and each public library as defined in section two hundred fifty-three of the education law, may purchase liability insurance with such limits as it may deem reasonable for the purpose of protecting its officers and employees against liability for claims arising from their acts while exercising or performing or in good faith purporting to exercise or perform their powers and duties.

JUDICIARY LAW

ARTICLE 14 – LAW REPORTING

§434. CONTRACTS FOR PUBLICATION OF REPORTS.

6. Said contract shall require the contractor to furnish the state library with fifty-eight copies of the court of appeals and appellate division reports and three copies of the miscellaneous reports, and also to furnish copies of each of said publications as follows: One of each to the clerk of each county, for the use of the county; one of each to the attorney general, for the use of his office; one of each to the state comptroller, for the use of his office; one of each to the clerk of the court of appeals, for the use of that court, and, excepting the court for the trial of impeachments and the court on the judiciary, one of each to each judge or justice of a court of record and to each surrogate where the surrogate is not also the county judge; and one of each to the various public law libraries in the state, and the expense of delivery thereof shall be borne by the state.

LEGISLATIVE LAW

ARTICLE 3 – THE ENACTMENT AND PUBLICATION OF LAWS

§47. OFFICERS AND INSTITUTIONS ENTITLED TO RECEIVE BOUND VOLUMES OF JOURNALS, BILLS AND DOCUMENTS. As soon as the journals, bills and documents are bound, the secretary of the senate and the clerk of the assembly respectively shall distribute them as follows:

1. To the legislative library, five copies of the journals and documents, and five copies of the bills;

2. To the New York state library, for incorporated colleges and universities in this state, for each state and territory, and for literary and scientific exchanges to be made by the New York state library, two hundred copies of the journals, one hundred copies of the documents, and five copies of the bills;

3. To the executive chamber, one copy of the bills;

4. To the office of the secretary of state, one copy of the bills;

5. To the office of the attorney-general, one copy of the journals, documents and bills.

NEW YORK STATE PRINTING AND PUBLIC DOCUMENTS LAW

ARTICLE 2 – GENERAL PROVISIONS

§6. DEPARTMENT PRINTING.

3. Every state officer, department, commission, institution and board shall, as soon as any report thereby is printed, deliver two hundred copies thereof to the state library.

3-a. New York state departments, agencies or authorities that produce or finance a film, audio or video tape, or other electronic information program shall, upon completion of the program, submit written notification of the program completion to the legislative library, state capitol and the gifts and exchange section of the state library.

NOT-FOR-PROFIT CORPORATION LAW

ARTICLE 4 – FORMATION OF CORPORATION

§404. APPROVALS AND CONSENTS. (a) ...

(b) ...

(c) ...

(d) Every certificate of incorporation which includes a purpose for which a corporation might be chartered by the regents of the university of the State of New York shall have endorsed thereon or annexed thereto the consent of the commissioner of education.

(e) ...

(f) ...

(g) ...

PUBLIC OFFICERS LAW

ARTICLE 2 – APPOINTMENT AND QUALIFICATION OF PUBLIC OFFICERS

"In my opinion, a trustee of a public library so empowered is exercising a part of the soverign power of the State and, that being so, he is a public officer..." 1955, Op.Atty.Gen.

§3. QUALIFICATIONS FOR HOLDING OFFICE. 1. No person shall be capable of holding a civil office who shall not, at the time he shall be chosen thereto, have attained the age of eighteen years, except that in the case of youth boards, youth commissions or recreation

commissions only, members of such boards or commissions may be under the age of eighteen years, but must have attained the age of sixteen years on or before the appointment to such youth board, youth commission or recreation commission, be a citizen of the United States, a resident of the state, and if it be a local office, a resident of the political subdivision or municipal corporation of the state for which he shall be chosen, or within which the electors electing him reside, or within which his official functions are required to be exercised, or who shall have been or shall be convicted of a violation of the selective draft act of the United States, enacted May eighteenth, nineteen hundred seventeen, or the acts amendatory or supplemental thereto, or of the federal selective training and service act of nineteen hundred forty or the acts amendatory thereof or supplemental thereto.

2. ...

3. ...

4. ...

5. ...

6. The provisions of this section requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not apply to the appointment of trustees of a public village library, who reside outside the village in which such library is located.

§10. OFFICIAL OATHS. Every officer shall take and file the oath of office required by law, and every judicial officer of the unified court system, in addition, shall file a copy of said oath in the office of court administration, before he shall be entitled to enter upon the discharge of any of his official duties. An oath of office may be administered by a judge of the court of appeals, the attorney general, or by any officer authorized to take, within the state, the acknowledgment of the execution of a deed of real property, or by an officer in whose office the oath is required to be filed or by his duly designated assistant, or may be administered to any member of a body of officers, by a presiding officer or clerk, thereof, who shall have taken an oath of office. An oath of office may be administered to any state or local officer who is a member of the armed forces of the United States by any commissioned officer, in active service, of the armed forces of the United States. In addition to the requirements of any other law, the certificate of the officer in the armed forces administering the oath of office under this section shall state (a) the rank of the officer administering the oath and (b) that the person taking the oath was at the time, enlisted, inducted, ordered or commissioned in or serving with, attached to or accompanying the armed forces of the United States. The fact that the officer administering the oath was at the time duly commissioned and in active service with the armed forces, shall be certified by the secretary of the army, secretary of the air force or by the secretary of the navy, as the case may be, of the United States, or by a person designated by him to make such certifications, but the place where such oath was administered need not be disclosed. The oath of office of a notary public or commissioner of deeds shall be filed in the office of the clerk of the county in which he shall reside. The oath of office of every state officer shall be filed in the office of the secretary of state: of every officer of a municipal corporation, including a school district, with the clerk thereof; and of every other officer, including the trustees and officers of a public library and the officers of boards of cooperative educational services, in the office of the clerk of the county in which he shall reside, if no place be otherwise provided by law for the filing thereof.

§18. DEFENSE AND INDEMNIFICATION OF OFFICERS AND EMPLOYEES OF PUBLIC ENTITIES.

1. As used in this section, unless the context otherwise requires:

(a) The term "public entity" shall mean (i) a county, city, town, village or any other political subdivision or civil division of the state, (ii) a school district, board of cooperative educational services, or any other governmental entity or combination or association of governmental entities operating a public school, college, community college or university, (iii) a public improvement or special district, (iv) a public authority, commission, agency or public benefit corporation, or (v) any other separate corporate instrumentality or unit of government; but shall not include the state of New York or any other public entity the officers and employees of which are covered by section seventeen of this chapter or by defense and indemnification provisions of any other state statute taking effect after January first, nineteen hundred seventy-nine.

(b) The term "employee" shall mean any commissioner, member of a public board or commission, trustee, director, officer, employee, volunteer expressly authorized to participate in a publicly sponsored volunteer program, or any other person holding a position by election, appointment or employment in the service of a public entity, whether or not compensated, but shall not include the sheriff of any county or an independent contractor. The term "employee" shall include a former employee, his estate or judicially appointed personal representative.

(c) The term "governing body" shall mean the board or body in which the general legislative, governmental or public powers of the public entity are vested and by au-

thority of which the business of the public entity is conducted.

2. The provisions of this section shall apply to any public entity:

(a) whose governing body has agreed by the adoption of local law, bylaw, resolution, rule or regulation (i) to confer the benefits of this section upon its employees, and (ii) to be held liable for the costs incurred under these provisions; or

(b) where the governing body of a municipality, for whose benefit the public entity has been established, has agreed by the adoption of local law or resolution (i) to confer the benefits of this section upon the employees of such public entity, and (ii) to be held liable for the costs incurred under these provisions.

3. (a) Upon compliance by the employee with the provisions of subdivision five of this section, the public entity shall provide for the defense of the employee in any civil action or proceeding, state or federal, arising out of any alleged act or omission which occurred or allegedly occurred while the employee was acting within the scope of his public employment or duties. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or at the behest of the public entity employing such employee.

(b) Subject to the conditions set forth in paragraph (a) of this subdivision, the employee shall be entitled to be represented by private counsel of his choice in any civil action or proceeding whenever the chief legal officer of the public entity or other counsel designated by the public entity determines that a conflict of interest exists, or whenever a court, upon appropriate motion or otherwise by a special proceeding, determines that a conflict of interest exists and that the employee is entitled to be represented by counsel of his choice, provided, however, that the chief legal officer or other counsel designated by the public entity may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such employees be represented by the same counsel. Reasonable attorneys; fees and litigation expenses shall be paid by the public entity to such private counsel from time to time during the pendency of the civil action or proceeding with the approval of the governing body of the public entity.

(c) Any dispute with respect to representation of multiple employees by a single counsel or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by the court upon motion or by way of a special proceeding.

(d) Where the employee delivers process and a written request for a defense to the public entity under subdivision five of this section, the public entity shall take the necessary steps on behalf of the employee to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide for a defense.

4. (a) The public entity shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in a state or federal court, or in the amount of any settlement of a claim, provided that the act or omission from which such judgment of claim arose occurred while the employee was acting within the scope of his public employment or duties; provided further that in the case of a settlement the duty to idemnify and save harmless shall be conditioned upon the approval of the amount of settlement by the governing body of the public entity.

(b) Except as otherwise provided by law, the duty to indemnify and save harmless prescribed by this subdivision shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee.

(c) Nothing in this subdivision shall authorize a public entity to indemnify or save harmless an employee with respect to punitive or exemplary damages, fines or penalties, or money recovered from an employee pursuant to section fifty-one of the general municipal law; provided, however, that the public entity shall idemnify and save harmless its employees in the amount of any costs, attorneys' fees, damages, fines or penalties which may be imposed by reason of an adjudication that an employee, acting within the scope of his public employment or duties, has, without willfulness or intent on his part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of this state or of the United States.

(d) Upon entry of a final judgment against the employee, or upon the settlement of the claim, the employee shall serve a copy of such judgment or settlement, personally or by certified or registered mail within thirty days of the date of entry or settlement, upon the chief administrative officer of the public entity; and if not inconsistent with the provisions of this section, the amount of such judgment or settlement shall be paid by the public entity.

5. The duty to defend or indemnify and save harmless prescribed by this section shall be conditioned upon: (i) delivery by the employee to the chief legal officer of the public entity or to its chief administrative officer of a written request to provide for his defense together with the original or a copy of any summons, complaint, process, notice, demand or pleading within ten days after he is served with such document, and (ii) the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the public entity based upon the same act or omission, and in the prosecution of any appeal.

6. The benefits of this section shall inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party nor shall provisions of this section be construed to affect, alter or repeal any provision of the workers' compensation law.

7. This section shall not in any way affect the obligation of any claimant to give notice to the public entity under section ten of the court of claims act, section fifty-e of the general municipal law, or any other provision of law.

8. Any public entity is hereby authorized and empowered to purchase insurance from any insurance company created by or under the laws of this state, or authorized by law to transact business in this state, against any liability imposed by the provisions of this section, or to act as a self-insurer with respect thereto.

9. All payments made under the terms of this section, whether for insurance or otherwise, shall be deemed to be for a public purpose and shall be audited and paid in the same manner as other public charges.

10. The provisions of this section shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

11. Except as otherwise specifically provided in this section, the provisions of this section shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity to liability available to or conferred upon any unit, entity, officer or employee of any public entity by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.

12. Except as otherwise provided in this section, benefits accorded to employees under this section shall be in lieu of and take the place of defense or indemnification protections accorded the same employees by another enactment; unless the governing body of the public entity shall have provided that these benefits shall supplement, and be available in addition to, defense or indemnification protection conferred by another enactment.

13. The provisions of this section shall also be applicable to any public library supported in whole or in part by a public entity whose governing body has determined by adoption of a local law, ordinance, by law, resolution, rule or regulation to confer the benefits of this section upon the employees of such public library and to be held liable for the cost incurred under these provisions.

14. If any provision of this section or the application thereof to any person or circumstances be held unconstitutional or invalid in whole or in part by any court, such holding of unconstitutionality or invalidity shall in no way affect or impair any other provision of this section or the application of any such provision to any other person or circumstance.

Members and officers of school boards and library trustees are required to take a constitutional oath before assuming office and this must be filed in the office of either the clerk of the board or the county clerk as the case may be. 23 Op.State Compt. 891, 1967.

The members of the board of trustees of a cooperative library system, and the treasurer elected by them (if not a member of the board) must take the constitutional oath of office prescribed by Const. Art. XIII, 1. 23 Op.State Compt. 767, 1967.

Trustees of a town public library are local public officers and must file the oath of office to qualify. 15 Op. .State Compt. 14, 1959.

ARTICLE 4 – POWERS AND DUTIES OF PUBLIC OFFICERS

§65-a. PUBLIC RECORDS; REPRODUCTION OF RECORDS ON FILMS AND DESTRUCTION THEREOF.

1. Any public officer of the state may cause any or all records, papers or documents kept by him to be photographed, microphotographed or reproduced on film. Such photographic film shall be of durable material and the device used to reproduce such records on such film shall be one which accurately reproduces the original thereof in all details.

2. Such photographs, microphotographs or photographic film shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. A transcript, exemplification or certified copy thereof shall, for all purposes recited herein, be deemed to be a transcript, exemplification, or certified copy of the original.

3. Whenever such photographs, microphotographs or reproductions on film shall be placed in conveniently accessible files and provisions made for preserving, examining and using the same, any such public officer may certify those facts to the head of the department, commission or board involved who shall have the power to authorize the destruction, sale to a historical, educational or scientific organization or municipal corporation, or other disposition of such records, papers or documents, provided the consent of the commissioner of education is obtained pursuant to section one hundred forty-seven of the education law.

STATE FINANCE LAW

ARTICLE 7 – ACCOUNTS AND AUDITS

§121. PAYMENT TO STATE TREASURER; FINANCIAL STATEMENTS

2.(k) Moneys received for the sale of government documents and duplicate materials by the state library,

which funds shall be administered by the regents under the provisions of section two hundred fifty of the education law.

OTHER LAWS RELATING TO LIBRARY INCORPORATION, TRUSTEES, BUILDINGS, AND EMPLOYEES

Many other sections of local, State, and Federal statutes apply directly and indirectly to libraries in addition to the excerpts included in this publication. If legal advice is needed, the services of a legal counsel should be retained.

McKinney's Consolidated Laws of New York (Annotated) give statute texts as well as pertinent decisions based on opinions of the Attorney General, the State Comptroller, and the Office of Counsel of the State Education Department. Historical notes show amendments to the laws and when they were made. The following State laws, among others, apply in part to libraries.

County Law
Education Law
General City Law
Labor Law
Public Building Law
Second Class Cities Law
Town Law
Village Law

Among the Federal statutes which may be consulted are Education Law, Internal Revenue Code, Labor Law, Public Health and Welfare Law, and Postal Service Law. Local codes must be consulted as well.

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